

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,

Plaintiffs,

v.

THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,

Defendants.

Case No. 5:10-cv-00140-C

**APPENDIX TO PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO  
DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT, AND  
PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT**

Fernando M. Bustos  
State Bar No. 24001819  
LAW OFFICES OF FERNANDO M. BUSTOS,  
P.C.  
P.O. Box 1980  
Lubbock, TX 79408-1980  
Tel: (806) 780-3976  
Fax: (806) 780-3800  
Email: fbustos@bustoslawfirm.com

Charles J. Cooper\*  
David H. Thompson\*  
Jesse Panuccio\*  
Pete Patterson\*  
COOPER & KIRK, PLLC  
1523 New Hampshire Ave., NW  
Washington, D.C. 20036  
Tel: (202) 220-9600  
Fax: (202) 220-9601  
Email: ccooper@cooperkirk.com  
\*Admitted *pro hac vice*.

*Counsel for Plaintiffs*

**Table of Contents**

Declaration of Robert Marcario .....	App. 1
Declaration of Rebekah Jennings.....	App. 5
Declaration of Brennan Harmon .....	App. 11
Declaration of Andrew Payne .....	App. 18
Declaration of Halie Fewkes.....	App. 24
Declaration of James D’Cruz.....	App. 31
Declaration of Grant Anastas-King .....	App. 37
Declaration of Josh Whitman.....	App. 46
Exhibits 1-3 for Declarations of Jennings, Harmon, Payne, Fewkes, D’Cruz, Anastas-King, Whitman .....	App. 57
Declaration of Paul White.....	App. 68
Declaration of Roger Koeppe .....	App. 71
Declaration of Annette Elliot .....	App. 75
Declaration of Steven Elliot .....	App. 79
Early State Militia Laws .....	App. 82

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF ROBERT MARCARIO**

I, Robert Marcario, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of Virginia and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am the Managing Director of Membership for the National Rifle Association. I have held this position since 1991. In this capacity, I have access to, and personal knowledge of, the NRA's membership information and practices.
3. The NRA has approximately four million members.
4. The NRA does not ask or know the age of all of its members, but for members who joined as Junior Members or Junior Life Members (15 years of age or younger at the time of application), the NRA does ask their age at the time of the membership application. Thus, the NRA can report a minimum number of members who, based on their age at the time of acquiring Junior

Memberships or Junior Life Memberships, are now 18 to 20 years of age. Likewise, the NRA can also report the number of members who, based on their age at the time of acquiring Junior Membership or Junior Life Membership, are now 15 to 17 years of age and will thus turn 18 during the likely pendency of this litigation. It is important to stress, however, that these numbers are merely a minimum. Based on my personal observation and experience in the NRA, I can report that there are members, including Life Members, between 18 and 20 years of age (and between 15 and 17 years of age) who do not report their age as part of their membership information.

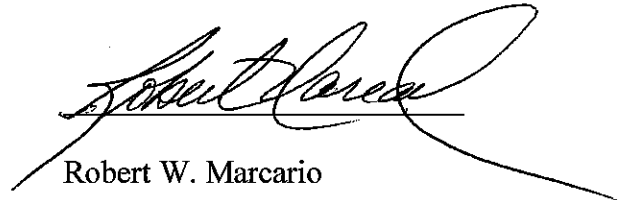
5. Nationally, the NRA has at least 11,106 members who are currently 18, 19, or 20 years of age, and at least 9,447 members who are currently 15, 16, or 17 years of age. These numbers include both Life and annual members.
6. In Texas, the NRA has at least 710 members who are currently 18, 19, or 20 years of age, and at least 639 members who are currently 15, 16, or 17 years of age. These numbers include both Life and annual members.
7. Within the geographic region that is covered by the United States District Court for the Northern District of Texas, the NRA has at least 257 members who are currently 18, 19, or 20 years of age, and at least 186 members who are currently 15, 16, or 17 years of age. These numbers include both Life and annual members.
8. The NRA's members include Federal Firearms Licensees ("FFLs"). Often, an FFL is issued in the name of a business rather than an individual. In addition, the NRA's individual membership application does not ask if the prospective member holds an FFL. Thus, based on my observation and experience, many of the NRA's individual members operate firearms

dealerships, but their membership information does not reflect that their business is the holder of an FFL.

9. Nonetheless, it is still possible to confirm that the NRA has many FFL members. Businesses may join the NRA as members through our Business Alliance program. Nationally, the NRA Business Alliance has at least 330 members who list their businesses as "Firearm Dealers." In Texas, the NRA Business Alliance has at least 24 members who list their businesses as "Firearm Dealers." Within the geographic region that is covered by the United States District Court for the Northern District of Texas, the NRA Business Alliance has at least four members who list their businesses as "Firearm Dealers." Again, based on my personal observation and experience, these numbers are merely a minimum because many firearm dealers who hold individual NRA memberships do not join the Business Alliance.
10. By law, anyone who engages in business as a firearms dealer must have a Federal Firearms License. It is thus reasonable to assume that all of the BA members who identify as "Firearm Dealers" are holders of FFLs. But to confirm this point, I have cross-checked our Business Alliance membership list against the BATF's currently available FFL list, which is found at <http://www.atf.gov/about/foia/ffl-list.html>. Based on that cross-check I can confirm that nationally, within Texas, and within the Northern District of Texas, members of the NRA Business Alliance hold currently valid FFLs. Indeed, within the geographic area covered by the U.S. District Court for the Northern District of Texas, the NRA has at least four members of the Business Alliance who have valid FFLs, according to the most recent list made available by the BATF.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 28, 2011



Robert W. Marcario

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF REBEKAH JENNINGS**

I, Rebekah Jennings, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Texas and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a nineteen-year-old female and reside in Boerne, Texas. I attend college in San Antonio, Texas.
3. I am a member of the National Rifle Association.
4. At the age of 13, I began competitive pistol shooting. I have been a member of the U.S. Olympic Development Team for pistol shooting and a member of the Texas State Rifle Association Junior National Team. Every year since 2005, I have attended the NRA National

Shooting Championship as a member of the TSRA Junior Team. Either I, or the relay team of which I am a part, has broken seven national shooting records.

5. Because I engage in competitive shooting, I have spent thousands of hours practicing the safe and effective use of handguns. I have spent hundreds of hours discussing proper pistol technique with experts in the field. I have also taken a firearms course in home safety and defense. Given this background, I can confidently state that I am extremely well-trained and well-versed in the responsible, proper, safe, and proficient use of handguns for self-defense and other lawful purposes.

6. I do not own any firearms. Instead, I use my father's pistols to practice my shooting.

7. If it were legal, I would purchase my own pistols right now, rather than continuing to borrow pistols from my father. I would like to own my own pistol because then I could make adjustments to it (such as changing sites, etc.) without asking my father's permission.

8. I believe handguns are a useful tool for self-defense. I would like to purchase my own handgun for self-defense purposes.

9. Under federal law—namely, 18 U.S.C. § 922(b)(1)—it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away



from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce"; or, (iii) violating 18 U.S.C. § 924(b), which states "[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both."

10. Because of these federal laws, I have not and cannot purchase a handgun from a federally licensed dealer. If these federal laws did not prohibit me from doing so, I would purchase a handgun and handgun ammunition from federally licensed dealers. Specifically, if I could do so right now, I would purchase a new Beretta 9mm from an FFL.

11. As a competitive shooter, I am keenly aware of particular details and features of a handgun that affect its accuracy, reliability, usability, and appropriateness for various scenarios. When I shop for handguns, it will be important that I be able to choose among these details and features. From my experience, I know that only commercial dealers will offer a range of handguns with a range of important features. The non-FFL, used-handgun market simply is not sufficient or reliable for these purposes. Moreover, when I buy a handgun, it will be important to know that someone stands behind the product. A licensed dealer with a commercial business has incentives to honor warranties, make repairs, and otherwise keep up good customer relations. A one-off seller of a used handgun does not have such incentives. I would thus prefer to buy my handguns from a licensed dealer.

12. As a competitive shooter, I know that ammunition must be of the highest quality and not adulterated or disfigured in any way. I would not be confident buying old ammunition from a

private seller. Instead, I would prefer to buy ammunition from a licensed dealer because I would know the ammunition came directly from the factory and had been stored safely and properly.

13. Even putting aside the above reasons, I would not necessarily be comfortable engaging in a face-to-face sale of a used handgun with a stranger who was not a legitimate and licensed dealer of firearms. I would have no way of knowing whether the person was offering a serious sale, or was instead trying to lure me into a personal meeting while I am in a vulnerable position.

14. There are websites on which handguns are offered for sale by both FFLs and non-FFLs, but those websites tend to require shipment through FFLs, so they do not provide a way around Section 922(b)(1)'s ban on transfers from FFLs. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com. Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

AuctionArms.com explains:

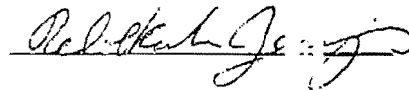
How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be

able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

15. Although it is legal for my parents to gift me a handgun, they have not done so. In any event, as noted above, I want to be able to buy my own handgun so that I can freely choose or modify the style and features that are best suited to my needs both for competitive shooting and self-defense purposes. Additionally, as a legal adult with years of training in the proper and safe handling of handguns, I do not believe I should have to ask my parents' (or anyone else's) permission to exercise my right to armed self-defense.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 28, 2011

A handwritten signature in cursive script, appearing to read "Rebekah Jennings", written over a horizontal line.

Rebekah Jennings

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF BRENNAN HARMON**

I, Brennan Harmon, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Texas and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a nineteen year old female and reside in an apartment in San Antonio, Texas. I do not have any roommates.
3. I am a member of the National Rifle Association.
4. My father and other members of my family have owned firearms, including long guns and handguns, for my entire life. They have owned these firearms for several purposes, including self-defense, hunting, and sport.

5. Through my father's instruction, and through personal study, I am well acquainted with the proper and safe handling, use, and storage of firearms and ammunition.

6. I am the owner of a rifle and a shotgun. I do not own a handgun.

7. I do not find either the rifle or the shotgun sufficient for armed self-defense. First, a handgun would be easier to store in a location that would be more readily accessible in an emergency. Second, a handgun cannot be easily redirected or wrestled away by an attacker. Third, I find a handgun easier to use and load, as the long guns require significant upper body strength and are not ideal for fast loading or accurate shooting in emergency situations. Fourth, a long gun requires two hands for operation, whereas a handgun would leave one hand free to call the police while pointing the gun at an intruder. Fifth, neither long gun is suitable for carriage outside the home (they are cumbersome and conspicuous), whereas a handgun is suitable for this purpose because of its size and concealable nature.

8. I believe that it is important for a firearms owner to be well trained in the safe and proper use and storage of their firearms. I therefore like to practice at firing ranges for this purpose. I also enjoy target shooting for sport purposes. Of course, ownership of the rifle and the shotgun does not allow me to engage in target shooting with a handgun.

9. I desire to own a handgun for self-defense and other lawful purposes.

10. I am a single female and I live alone in a city with a significant crime rate. There have been shooting incidents at apartment complexes that neighbor my complex. I therefore sometimes fear for my safety. I believe that a handgun would better enable me to protect myself if I were ever approached by a criminal. If I owned a handgun, I would therefore keep it in my home for self-defense purposes. To the extent it was consistent with Texas law, I would also sometimes carry a handgun outside the home for self-defense purposes.

11. Under federal law—namely, 18 U.S.C. § 922(b)(1)—it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce”; or, (iii) violating 18 U.S.C. § 924(b), which states “[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both.”

12. Because of these federal laws, I have not and cannot purchase a handgun from a federally licensed dealer.

13. If it were legal, I would buy a new handgun from a federally licensed dealer. In general, I would like a standard Glock pistol or a .22 caliber handgun. Recently, I visited a federally licensed dealer, Bass Pro Shops in San Antonio, and examined its inventory of handguns. I identified a Ruger SR9 Compact 9mm and asked whether the dealer would sell it to me. He

informed me that federal law barred him from selling me this handgun. If it were not illegal, I would buy this handgun from this dealer now and use it for home- and self-defense.

14. Although it is legal for my parents to gift me a handgun under federal law, they have not done so. Moreover, as a legal adult, I do not believe I should have to ask my parents' (or anyone else's) permission to exercise my right to armed self-defense.

15. I am also aware that, under federal law, it is possible for me to buy a used handgun and corresponding ammunition from a private party that does not regularly engage in firearms sales. I do not find this to be a suitable substitute for the ability to purchase a new handgun and corresponding ammunition from a federally licensed dealer. There are several reasons for this.

- a. First, a dealer has a wider selection and competitive prices; a dealer is much more likely to have the handgun I want to buy, when I want to buy it, at a price that is fair and competitive. A dealer that keeps regular hours and a regular inventory is also likely to have the ammunition I need in stock on a regular basis. Secondary sellers, by definition, do not keep a permanent stock of handguns or corresponding ammunition, do not have to have competitive prices, and may not be regularly available to engage in sales.
- b. Second, because I believe that firearms safety is important, I place a premium on knowing that my firearms are in good working order and that my ammunition is in good, usable, safe condition. I do not believe that a one-off seller of a used handgun and ammunition can make these guarantees—and even if the seller made such guarantees, I would not be comfortable with them. A retail gun dealer, on the other hand, sells handguns and ammunition that come directly from the manufacturer, with



all of the assurances, warranties, and safety-checks that accompany most retail sales of new products.

16. Furthermore, the only kind of used sale I could engage in would be a face-to-face sale. I could not, for example, take advantage of gun auction websites, because those websites require shipment through FFLs—and FFLs are prohibited by federal law from transferring a handgun to me.

17. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com.

Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

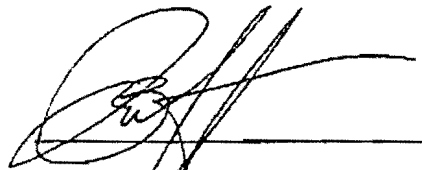
AuctionArms.com explains:

How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

18. Even if I could find a stranger willing to sell me a used handgun face-to-face, I would not be comfortable engaging in that transaction. I would be worried about meeting up with a stranger with a firearm. This would be equally true whether I invited the seller to my home or traveled to the seller's home. Indeed, I am not sure which would be worse—but both scenarios would make me very nervous.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 27, 2011



Brennan Harmon

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF ANDREW PAYNE**

I, Andrew Payne, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of Lubbock, Texas and am eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a member of the National Rifle Association.
3. I regularly accompany my father on visits to a shooting range. We also hunt together. These experiences have provided me with training in the proper and safe handling of firearms, including handguns. I take firearms safety seriously and I understand the appropriate uses of firearms. I do not, and would not, use a firearm for an inappropriate or illegal purpose.

4. I believe that I have the right to self-defense, and that use of arms is the most effective method of self-defense in some circumstances. I want to own a handgun for purposes of self-defense both inside and outside the home.

5. I own two long guns, but I do not own any handguns.

6. I do not find my long guns sufficient for armed self-defense. A handgun would be easier to retrieve and use in an emergency situation, would be less likely to be wrested away by an attacker, and would leave one hand free to dial the police. Moreover, long guns are not suitable for carriage outside the home (they are cumbersome and conspicuous), whereas a handgun is suitable for this purpose because of its size and concealable nature.

7. I understand that under federal law, including 18 U.S.C. § 922(b)(1), it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce”; or, (iii) violating 18 U.S.C. § 924(b), which states “[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm

or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both.”

8. Because of these federal laws, I have not and cannot purchase a handgun or handgun ammunition from a federally licensed dealer.

9. I would like to buy a handgun and handgun ammunition for personal protection and for use at a shooting range. If it were legal, I would buy a handgun from a federally licensed dealer.

10. On January 26, 2011, I visited Sharp Shooters, a firearms dealer in Lubbock, Texas. After browsing for a while, I identified a handgun that I wanted to purchase—a new Taurus .357 magnum that was selling for just under \$500. I informed the sales person that I was 18 years of age and asked whether they would sell me the handgun. The salesperson refused and stated that I was ineligible to purchase the handgun because I was not 21 years of age. If Sharp Shooters could legally sell me this handgun, I would buy it (or one very similar to it) from that store now.

11. I want to buy a new handgun. I do not want to purchase a used handgun or handgun ammunition from a non-dealer. I want to ensure that my handgun is safe and reliable, and that no improper modifications have been made by anyone. I think my chances of getting such a gun are greatly increased if I buy it new from a dealer, rather than used from a seller. For these very reasons, when I bought my two long guns, I bought them new from federally licensed dealers.

12. I also believe that ammunition sold by a federally licensed dealer would be more trustworthy and safer than old ammunition sold by a non-dealer. To be safe, ammunition cannot be altered, defaced, or corroded in any way. When you buy ammunition from a licensed dealer, you know that it comes directly from the manufacturer and has been stored and maintained according to industry standards and controlling laws and regulations. You do not have any such guarantees when buying old ammunition from a private seller.

13. I also believe a federally licensed dealer will have a better selection, better prices, better warranties, and greater knowledge about the products for sale.

14. Even if I were willing to buy a used handgun from a non-FFL, in my experience it would be very difficult to find one for sale. I am not aware of any acquaintance, neighbor, or friend who is currently offering a used handgun and handgun ammunition for sale. I am aware that there are websites where both FFLs and non-FFLs offer new and used guns for sale through Internet-style auctions. But those websites typically require shipment through FFLs, so they do not provide a way around Section 922(b)(1)'s ban on transfers from FFLs.

15. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com.

Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

AuctionArms.com explains:

How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be

able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

16. My parents have not purchased a handgun for me, and I do not believe I should have to rely on them to do so in order to exercise my right to own and possess a handgun for self-defense and other lawful purposes. I also do not believe it will be feasible to rely on my parents every time I need ammunition for my handgun.

17. Aside from my age, I am otherwise qualified to purchase a handgun and handgun ammunition under federal and state law.



I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 27, 2011

Andrew Payne

Andrew Payne

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF HALIE FEWKES**

I, Halie Fewkes, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Washington and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a nineteen year-old-female and reside in Pullman, Washington, where I attend college. My permanent residence is in Kalama, Washington.
3. I am a member of the National Rifle Association.
4. Through instruction from my father over the years, as well as personal study, I am well acquainted with the proper and safe handling, use, and storage of firearms and ammunition. For example, under my father's instruction, when I am home in Kalama, I use a .44 magnum handgun for target practice.

5. Next semester, I plan to live in an off-campus apartment. So that I can go target shooting, and also for purposes of home- and self-defense if necessary, I would like to buy a new handgun to keep in that apartment.

6. I am aware that under a federal law, 18 U.S.C. § 922(b)(1), it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce”; or, (iii) violating 18 U.S.C. § 924(b), which states “[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both.”

7. Because of these federal laws, I have not and cannot purchase a handgun from a federally licensed dealer.

8. If it were legal, this summer I would buy a handgun from a federally licensed dealer.

9. I do not believe my parents will buy me this handgun as a gift, and even if they would, I do not believe that, as a legal adult, I should have to rely on my parents to buy me a handgun for self-defense. Moreover, my parents live six hours away, so it is not feasible to rely on them to continually gift me ammunition for a handgun. Even if they gifted me a box of ammunition with the initial gift of the gun, I would be without ammunition as soon as I used the initial box at a shooting range.

10. I do not want to buy a used handgun from a non-dealer. Instead, I want to buy a new handgun so that I can be sure it will be safe and reliable in an emergency. The same goes for ammunition: I am aware that it is critically important for ammunition not to be altered or corroded in any way, and I would not trust old ammunition bought from a non-dealer.

11. I would also prefer to buy a handgun and handgun ammunition from a federally licensed dealer because a dealer could answer my questions (either at the time of sale or later) and would likely stand by the product if anything were later to go wrong. I also believe a dealer will have a better selection of handguns from which to choose.

12. Even if I were willing to buy a used handgun from a non-dealer, I am not aware of anyone I know selling one. As for purchasing from strangers face-to-face, I would be very uncomfortable with such a transaction. It would require me to either go to the seller's home, or to allow the seller to come to my home, when I knew the seller had a firearm. I would have no guarantee that the offered sale was legitimate, rather than a ploy to get me alone and in a vulnerable situation.

13. I am aware that there are Internet auction websites for firearms. Many of the handguns offered for sale on these websites appear to be offered by FFLs. But even for firearms sold by non-dealers, the websites explain that the sale must be completed by shipping the firearm

through FFLs—which means that, under Section 922(b)(1), I am precluded from engaging in these auctions. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com.

Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

AuctionArms.com explains:

How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

14. These Internet websites also show that there are not that many non-FFL sellers in my area offering handguns for sale. For example, on January 25, 2011, the website [www.GunsAmerica.com](http://www.GunsAmerica.com) showed only seven listings for used handguns by sellers in Washington State living within 100 miles of Pullman, Washington. Of those seven listings, four of the guns

were priced at over \$1,000, and no gun was priced at less than \$550. I have attached as Exhibit 4 a true and correct copy of these listings.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on January 27, 2011

Halie Fewkes

Halie Fewkes

# EXHIBIT 4



**GUNSAMERICA**  
Where America Buys and Sells Guns

**BUY GUNS SELL GUNS**

**SELL YOUR GUNS  
NO POSTING  
FEES! Sell Now!**

[Home](#) >> [Browse All](#) >> [Search Results](#) >> [Login To Save This Search](#)

[Login](#) | [Quick Register FREE](#)

## Kimber of America Pistols For Sale

- ☒ All Types (8)  
☐ Classifieds (8)  
☐ Auctions  
☐ On Demand

Sort By: [Price \(Lowest first\)](#) 100 / Page 8 Listings Found Page 1 of 1

Enter Search Word(s),  
Seller Phone Number,  
or GA Item Number

**Search**

- ☐ Search Full Text of Listings  
☒ Show Only Guns  
☐ Show Only with Pictures  
☐ Show Only Non-Guns

POSTED WITHIN

All

MIN \$ All MAX \$ All

FFL Status? Only Non-FFLs

LIMIT CALIBER

All Calibers

LIMIT CONDITION

NIB

99183

100 miles

LIMIT TO STATE VA

**Apply Settings**

- ☐ Kimber of America Pistols (1)  
☐ E Misc Pistols (1)  
☐ Ruger Single Action Revolvers (1)  
☐ Cowboy Action (1)  
☐ Muzzleloading Modern & Replica  
Pistols (perc) (1)  
☐ Auto Ordnance Pistols (1)  
☐ Colt Single Action Revolvers -  
Modern (22 Cal.) (1)  
☐ Intratec Pistols (1)  
☐ Heckler & Koch Pistols (1)  
☐ Steelframe (1)

**COLT GOVERNMENT 01070XS 45ACP SEMI-AUTO PISTOL** 974560564  
*Colt Single Action Revolvers - Modern (22 Cal.)*  
 COLT GOVERNMENT 01070XS 45ACP SEMI-AUTO PISTOL STAINLESS BRUSHED FINISH 5" BBL FIXED SIGHTS  
 CHECKERED ROSEWOOD GRIP 8 RND MAGAZINE Featured: Front and rear slide serrations ...  
 Seller: Babbits \$989.00 [Full Details](#)

**THOMPSON MOD. 1927 A5** 963143343  
*Auto Ordnance Pistols*  
 THE FAMOUS ORIGINAL THOMPSON-A5 PISTOL NEVER FIRED NOT A KAHN REMAKE. HAVE A DRUM AVAILABLE  
 AND COMES WITH 2 MAGS. OWN A PIECE OF HISTORY--ADD TO YOUR COLLECTION OR JUST SHOOT IT ...  
 Seller: Kafir [More from this Seller](#) \$1,875.00 [Full Details](#)

**THE RUGER LCP** WITH CRIMSON TRACE LASERGUARD AND POCKET HOLSTER  
**Always Prepared.  
 Always On Target.** [CLICK HERE TO LEARN MORE](#)  
**RUGER**

**H&K P7 K3** 957884896  
*Heckler & Koch Pistols > Steelframe*  
 IF YOU COLLECT H&K'S AND DON'T HAVE THIS IN YOUR COLLECTION THE IT'S NOT COMPLETE, NEW IN BOX WITH ALL  
 ORIGINAL MAGS/PAPERWORK--VERY BEAUTIFUL  
 Seller: Kafir \$2,386.00 [Full Details](#)

**TEC-22** 976969039  
*Intratec Pistols*  
 A select-fire full-auto INTRATEC TEC-22 video has never been seen before until now! Watch a rare video demonstration of  
 the first Class II registered select-fire TEC-22 in America...  
 Seller: Kens Guns \$50.00 [Full Details](#)

**EIG 22 X4** 901195342  
*E Misc Pistols*  
 This BG is an Italian copy of the only pistol Mossberg ever marketed. I speak of the Mossberg Browne, a 4 shot .22 that is  
 the mini version of the COP derringer. 4 barrels with a...  
 Seller: Pnewk \$550.00 [Full Details](#)

**KIMBER SUPER CARRY ULTRA - .45 ACP** 910484464  
*Kimber of America Pistols*  
 NEW Kimber Super Carry Ultra EXTRA MAG\_ BIANCHI HOLSTER Bought gun a couple weeks ago on impulse  
 and have a little buyer's remorse. The gun has not been fired and been stored in...  
 Seller: Schuder \$1,300.00 [Full Details](#)

**REMINGTON AMERICA REMEMBERS COMMEMORATIVE 44 CAP AND BALL** 939350251  
*Muzzleloading Modern & Replica Pistols (perc)*  
 I have this beautiful commemorative Remington 44 America Remembers revolver. This work of art comes in wood  
 presentation box with paper work etc. Is number 535 out of a run of 1000...  
 Seller: Namgun \$1,575.00 [Full Details](#)

**JOHN WAYNE SPECIAL EDITION VAQUERO-CENTENNIAL** 921535944  
*Ruger Single Action Revolvers > Cowboy Action*  
 NEW IN BOX. "JOHN WAYNE" Centennial Vaquero Ruger Special edition 24 carat engraved wood grips with J.W. initials.  
 Limited to 3500 guns don't miss out on this very rare highly col...  
 Seller: Bart Bartholic \$2,400.00 [Full Details](#)

8 Listings Found Page 1 of 1

**THE RUGER LCP**  
 WITH CRIMSON TRACE LASERGUARD AND POCKET HOLSTER  
**RUGER**  
 CLICK HERE TO LEARN MORE

**PF-9**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF JAMES D'CRUZ**

I, James D'Cruz, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am living in the State of Florida and am eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. For the past ten years I have lived in Lubbock, Texas. For a portion of 2010, I lived alone in an apartment in Lubbock and attended Texas Tech University.
3. My family recently relocated to Merritt Island, Florida. I am living with my family in Merritt Island, and am not enrolled in Texas Tech this semester.
4. I am a member of the National Rifle Association.
5. I am well-trained in the safe and proper handling of firearms, including handguns. My initial training with firearms began with my grandfather, a World War II veteran who felt it was

important for me to understand the proper and safe way to deal with a firearm. My father has also given me instruction on the appropriate use and storage of firearms. Additionally, as a high school student, I was a member of the Navy Junior Reserve Officers' Training Corps. As a JROTC cadet, I was regularly instructed in basic rifle skills, rifle safety, and rifle marksmanship. I achieved the rank of Lieutenant Junior Grade and served as a supply officer. As a supply officer, I was personally responsible for the unit's firearms inventory. During my junior and senior years of high school I was a member of my unit's marksmanship team and competed in regional and national marksmanship competitions. I received numerous awards at these competitions, including a first place medal in a regional competition. I also received an American Legion unit award for marksmanship.

6. On September 26, 2010, I completed a handgun safety and proficiency course taught by an instructor licensed by the State of Texas. The course consisted of approximately eight hours of classroom instruction and two hours of range instruction. The course culminated with administration of the written and range examinations that are required of applicants for a Texas Concealed Handgun License. On my first attempt, I achieved a score of 92% on the written examination and a score of 93.6% on the range examination. Texas requires a score of 70% or better to pass the test.

7. I take firearms safety very seriously. I understand that if firearms are not handled and stored appropriately, they can be extremely dangerous. I also understand the appropriate uses of firearms, which include self-defense, target practice, and hunting. I would never use a firearm for an inappropriate or illegal purpose.

8. I consider myself a law-abiding citizen and pay close attention to state and federal firearms laws. I take these laws seriously and do everything I can to comply with them.

9. I believe that I have the right to self-defense, and that use of arms is the most effective method of self-defense in some circumstances.

10. I am the owner of a rifle and a handgun. The handgun was gifted to me on my eighteenth birthday, along with a box of ammunition. It is Springfield Amory 1911 .45 ACP.

11. I understand that under federal law, including 18 U.S.C. § 922(b)(1), it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce”; or, (iii) violating 18 U.S.C. § § 924(b), which states “[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both.”

12. Because of these federal laws, I have not and cannot purchase a handgun or handgun ammunition from a federally licensed dealer.

13. If it were legal, I would buy an additional handgun from a federally licensed dealer. The handgun I have now is not sufficiently accurate for the long-range target practice I engage in. I also believe that my current handgun is not best-suited for self-defense purposes; I would prefer a 9mm for these purposes. If it were legal, I would buy this handgun now from an FFL.

14. If it were legal, I would also purchase additional ammunition for the handgun I currently own. As it now stands, I have the one box of ammunition that was gifted to me on my eighteenth birthday. If I use this ammunition, I am not permitted under federal law to buy additional ammunition. Thus, even though I would like to use this ammunition for target practice, I refrain from doing so. I want to ensure I have ammunition available should an emergency arise that called for armed self-defense.

15. On September 3, 2010, I visited Sharp Shooters, Inc., a federally licensed firearms dealer located in Lubbock, Texas. I browsed the inventory of handguns and inquired as to whether the shop would sell me one. A Sharp Shooters employee informed me that federal law prohibited the sale.

16. I am not interested in purchasing a used handgun from a non-dealer, nor would I trust ammunition sold to me by a non-dealer. With respect to handguns, I believe that a licensed dealer is much more likely to sell me a reliable, safe firearm—and that a dealer is more likely to address any issues that might arise down the line. With respect to ammunition, I know from my training that it is not safe to shoot ammunition that has been damaged or corroded in any way. A licensed dealer will sell ammunition that comes directly from the factory, which is much more likely to be in a safe, clean condition.

17. And even if I were willing to purchase used handguns, I would not have much of an opportunity to do so. While there are gun auction websites that contain some advertisements for

handgun sales by non-FFLs, those transactions still require use of FFLs for shipment and thus are of no help to me. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com. Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

AuctionArms.com explains:


How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

18. Although it is legal for my parents to gift me a new handgun under federal law, they have indicated that they will not buy me the new handgun I want. More importantly, as a legal adult, I do not believe I should have to ask my parents' (or anyone else's) permission to exercise my right to armed self-defense. I also do not think it is feasible to have to ask my parents to gift me ammunition every time I want to use a handgun at a shooting range.

19. Aside from my age, I am otherwise qualified to purchase a handgun and handgun ammunition under federal and state law.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on January \_\_, 2011



James D'Cruz

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF GRANT ANASTAS-KING**

I, Grant Anastas-King, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Alabama and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a nineteen years old and attend college in Chapel Hill, North Carolina. My permanent residence is in Huntsville, Alabama.
3. I am a member of the National Rifle Association.
4. Until the age of 18, I was a Boy Scout. I achieved the rank of Life Scout. I competed in several rifle competitions as a Scout.
5. Through Scout activities, personal study, and shooting at ranges with my parents, I am familiar with the safe and proper way to handle and use firearms, including handguns.

6. I am the owner of a rifle, which I purchased from a federally licensed firearms dealer a few months ago. I keep the rifle in Huntsville. I do not find the rifle sufficient for self-defense. A handgun is easier to store in an accessible location and is easier to use and handle proficiently in an emergency.

7. I do not own a handgun, but I want to purchase one for purposes of self-defense and target practice. To this end, in December 2010, I went to Larry's Pistol and Pawn in Huntsville and asked to see some handguns I was interested in purchasing. The salesperson refused to show them to me and explained that he was refusing because under federal law he was prohibited from selling them to me.

8. I am thus now aware that under federal law—18 U.S.C. § 922(b)(1)—it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce”; or, (iii) violating 18 U.S.C. § 924(b), which states “[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm



or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both.”

9. Because of these federal laws, I have not and cannot purchase a handgun from a federally licensed dealer.

10. If it were legal, I would buy a handgun from a federally licensed dealer. In general, I would like to purchase a Ruger or Beretta, but I have not yet decided on a specific model. I would buy such a handgun the next time I return to Huntsville.

11. As with the long gun I recently purchased, I want to purchase a new handgun. I do not want to purchase a used handgun from a private seller. With a new handgun from a dealer, I can be certain of the gun’s origin and history. I can also be certain that the dealer will stand behind the product and be available to answer any questions I might have.

12. I also do not want to purchase old ammunition for a handgun. I want new ammunition from a dealer so that I can be confident it has been properly stored and is not corroded or altered in any way.

13. Even if I were willing to take the risk of purchasing a used handgun from a private seller, I am not aware of anyone near my home in Huntsville who is offering a handgun for sale.

14. I do know that there are some websites on which handguns are offered for sale by both FFLs and non-FFLs. But those websites typically require shipment through FFLs, so they do not provide a way around Section 922(b)(1)’s ban on transfers from FFLs. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com. Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle

transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

AuctionArms.com explains:

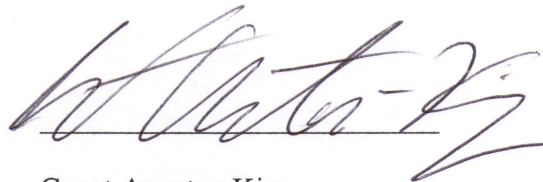
How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

15. In any event, a search of GunsAmerica.com on January 25, 2011, shows how few handguns are for sale in the secondary market near my home. There were only 36 listings for handguns offered by non-FFLs within 50 miles of Huntsville. Of those, 9 of the handguns were more than \$1,000 and 14 of them were between \$500 and \$999. I have attached as Exhibit 4 a true and correct copy of these results from the GunsAmerica website.

16. Although it is legal for my parents to gift me a handgun under federal law, they have not done so. Moreover, as a legal adult, I do not believe I should have to ask my parents' (or anyone else's) permission to exercise my right to armed self-defense.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 26, 2011

A handwritten signature in dark ink, appearing to read "Grant Anastas-King", written over a horizontal line.

Grant Anastas-King

# EXHIBIT 4



**GO ADVANCED SEARCH**

**BUY GUNS SELL GUNS**

Where America Buys and Sells Guns

SELL YOUR GUNS  
NO POSTING  
FEES! [Sell Now!](#)

Home >> Browse All >> Search Results >> Login To Save This Search

Login | Quick Register FREE

## Smith & Wesson Revolvers For Sale

☒ All Types (36)

☐ Classifieds (35)

☐ Auctions (1)

☐ On Demand

Enter Search Word(s),  
Seller Phone Number,  
or GA Item Number

**Search**

☐ Search Full Text of Listings

☒ Show Only Guns

☐ Show Only with Pictures

☐ Show Only New Guns

POSTED WITHIN: All

MIN \$ All MAX \$ All

FFL Status? Only Non-FFLs

LIMIT CALIBER: All Calibers

LIMIT CONDITION: Condition at least

35801 50 miles


LIMIT TO STATE: AL

**Apply Settings**

Sort By: Price (Highest first)

50 / Page

36 Listings Found Page 1 of 1



**SMITH AND WESSON MODEL 270 INTERNATIONAL SIGNAL/LINE THROWING PISTOL** 930949854


Smith & Wesson Pistols - Replica

**'MODEL 270 INTERNATIONAL SIGNAL/LINE THROWING PISTOL' 18" Barrel, sn:'PY7511, Walnut Carrying Handle, Phosphate Finish with Case Colored Hammer and Trigger. In Double and Single A...** (read more)

Seller: Wilson Dinsmore

GA Sales: 15

\$795.00 [Full Details](#)



**MAC 10 OPEN BOLT** 962167284

Mac-10 Pistols

I have two mac 10 open bolt pistols. One is marked sapM10 and the other one is marked sm10. The sapM10 has two bolts, one is 45 and the other is 9 mm. The sm10 is a 9mm. Both guns ... (read more)


Seller: Dadric

\$2,500.00 [Full Details](#)

**THE RUGER LCP** WITH GRIMSON TRAIL, LASERGUARD, AND POCKET HOLSTER

**Always Prepared.  
Always On Target.**






**COLT 1911 ONE OF 4000 RE-ISSUE NIB** 987336316

Colt Automatic Pistols (1911 & Var)

This 1911 Colt is an exact copy and one of only 4000 re-issued. Every detail is exactly as found on the original including the carbonia blue finish. New in the box and never fired.... (read more)

Seller: FDC

\$1,500.00 [Full Details](#)




**COLT SAA WEST VIRGINIA CENTENNIAL 1863-1963** 991437578

Colt Single Action Revolvers - 3rd Gen.

COLT SAA WEST VIRGINIA CENTENNIAL 1863-1963 serial number 512 of 600. Caliber is 45 LC. Gun is unfired but has been handled and the gold plating is starting to oxidize on the gr... (read more)

Seller: Loren0216

\$1,200.00 [Full Details](#)




**DESERT EAGLE .50AE WITH EXTRAS** 996089889

Desert Eagle/Mk Pistols > Desert Eagle

For Sale a Desert Eagle in .50AE in pristine condition. Included with the pistol a shoulder holster, case and all paperwork, one magazine, aimpoint laser shown in picture, and ten ... (read more)

Seller: Kiowdriver27

\$1,200.00 [Full Details](#)




**SPRINGFIELD HI CAP 1911** 932201022

Springfield Armory Pistols > 1911 Type

Customized Springfield 1911-A1 .45 caliber High Capacity. Includes complete reliability tune job; extended combat thumb safety; extended combat slide stop; one piece solid guide ro... (read more)

Seller: MichaelN

\$1,100.00 [Full Details](#)




**DETONICS COMBAT MASTER MK VI** 987053246

Detonics Pistols

Exceptional Detonics MK IV. This pistol is an original from Seattle, WA. It comes with 3 original mags and 2 sets of original grips. Ive only fired 50rds. through this pistol. N... (read more)

Seller: JAYROD

\$1,100.00 [Full Details](#)




**REMINGTON XP100** 949449521

Remington Pistols XP-100

Remington XP100 rechambered to 284. Includes brass and dies and a Redding competon seating die worth \$80.00 (read more)

Seller: John Garrison

\$1,095.00 [Full Details](#)




**SIG SAUER 1911 45 ACP BLACKWATER** 991359544

Sig - Sauer/Sigarms Pistols > 1911

Sig Sauer 1911R 45ACP Blackwater. Bought new and never fire. I also have a P226R Blackwater listed also. Novak Night Sight Nitron Coated Frame/Side Blackwater Wood Grip L... (read more)

Seller: John Lee

\$1,090.00 [Full Details](#)




**COLT TROOPER MARK III .357 MAGNUM NICKEL** 914163844

Colt Double Action Revolvers - Modern

Colt Trooper Mark III in very good condition, clean Nickel Plated with 6" Barrel and original wood gnps Double Action Adjustable rear sight With protective case Has... (read more)

Seller: Trey LeBlanc

\$1,069.00 [Full Details](#)




**SMITH AND WESSON 500 MAGNUM** 979531408

Smith & Wesson Revolvers > Full Frame Revolver

SMITH AND WESSON 500 MAGNUM. 8 3/8" BARREL WITH COMPENSATOR. HOGUE GRIP IS VERY COMFORTABLE AND BALANCES THE GUN NICELY. THE GUN INCLUDES ALL PAPERWORK, TOOLS, AND ORIGINAL BOX.... (read more)

Seller: Floyd47

\$1,000.00 [Full Details](#)



**KIMBER GOLD MATCH II NEVER FIRED** 977477443

Kimber of America Pistols


KIMBER GOLD MATCH II 45 ACP. I am not a gun dealer but I have been an enthusiast for all my life I traded this excellent pistol in on a rifle. The gentleman I got it from is to... (read more)

Seller: Nightwind15

\$999.00 [Full Details](#)

**THE RUGER LCP**

WITH GRIMSON TRAIL, LASERGUARD, AND POCKET HOLSTER

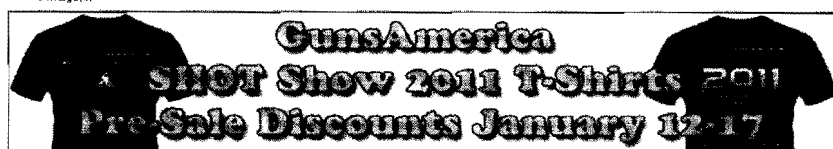


[CLICK HERE TO LEARN MORE](#)

**PF-9**

- ☐ Full Double Action Revolvers Modern (1)
- ☐ Smith & Wesson Pistols - Replic (1)
- ☐ Detonics Pistols (1)
- ☐ Remington Pistols XP-100 (1)

<p>NO PHOTO PROVIDED</p> <p>0 image(s)</p>	<p><b>TRADE: H&amp;K USP PACKAGE</b>  <i>Heckler &amp; Koch Pistols &gt; Polymer Frame</i>            -Blue Heckler &amp; Koch USP 40 Fullsize. Factory Night Sights. Variant 3 (Decock Only) -Galco SCL28 Miami Classic Shoulder Holster for HK USP with Double mag case. -Galco FL29... (read more)</p> <p>Seller: BobbyInman 923751724</p> <p>\$950.00 <a href="#">Full Details</a></p>
<p>NO PHOTO PROVIDED</p> <p>0 image(s)</p>	<p><b>TRADES: H&amp;K USP45 TACTICAL</b>  <i>Heckler &amp; Koch Pistols &gt; Polymer Frame</i>            Heckler &amp; Koch USP 45 Tactical. Factory adjustable sights. One ten rd mag. GG&amp;G rail adaptor included. Looking to trade for a Beretta. (read more)</p> <p>Seller: BerettaLiteman 986473914</p> <p>\$900.00 <a href="#">Full Details</a></p>



<p>4 image(s)</p>	<p><b>HUSQVARNA M-40 9MM</b>  <i>Husqvarna Pistols</i>            Husqvarna M-40 9mm Luger This was a Swedish licensed copy of the Lahti 1935. Serial numbers do NOT match. Postal Money Orders, or certified funds will ship immediately. All o... (read more)</p> <p>Seller: Wilson Dinsmore 964860542</p> <p>GA Sales: 15</p> <p>\$895.00 <a href="#">Full Details</a></p>
<p>1 image(s)</p>	<p><b>SMITH &amp; WESSON HIGHWAY PATROL .357</b>  <i>Smith &amp; Wesson Revolvers &gt; Full Frame Revolver</i>            Model 28-2 blued, serial # 504010 Double action. 357 Magnum Revolver Very Little use Estate gun Very Good Condition with Rubber Grips, origiant grips included Good h... (read more)</p> <p>Seller: Trey LeBlanc 999814064</p> <p>\$850.00 <a href="#">Full Details</a></p>
<p>4 image(s)</p>	<p><b>BERETTA M.1915/19 SEMI-AUTOMATIC PISTOL</b>  <i>Beretta Pistols &gt; Rare &amp; Collectible</i>            DESCRIPTION: Scarce, Italian Beretta M.1915/19 semi-automatic pistol. Model 1915/19 was an improved version of Model 1915. It was designed shortly after the end of the World War On... (read more)</p> <p>Seller: Wilson Dinsmore 995838048</p> <p>GA Sales: 15</p> <p>\$825.00 <a href="#">Full Details</a></p>
<p>4 image(s)</p>	<p><b>BROWNING HIGH POWER - MADE IN BELGIUM</b>  <i>Browning Pistols &gt; Hi Power</i>            BROWNING HI-POWER, BELGIUM MADE, 9MM. CALIBER: 4 5/8" BAR-STO BARREL WITH FIXED SIGHTS, CHECKERED WOOD GRIPS COMES WITH ONE CLIP. FINE CONDITION, SEE PHOTOS The insides of the ... (read more)</p> <p>Seller: Wilson Dinsmore 996564534</p> <p>GA Sales: 15</p> <p>\$795.00 <a href="#">Full Details</a></p>
<p>2 image(s)</p>	<p><b>AMT AUTOMAG II 22MAG</b>  <i>AMT Pistols &gt; Other</i>            Iazor sights needs batterys shipping coast may very (read more)</p> <p>Seller: Yipfreely 954784204</p> <p>\$700.00 <a href="#">Full Details</a></p>
<p>NO PHOTO PROVIDED</p> <p>0 image(s)</p>	<p><b>TRADES: CUSTOM 2 STAINLESS</b>  <i>Kimber of America Pistols</i>            Stainless Kimber Custom Classic II. 45 ACP. Has Fiber Optic Front Sights. Comes with new Fusion Checkered Mainspring Housing/Mag well (not installed: Stainless), Blackhawk Serpa ... (read more)</p> <p>Seller: BerettaLiteman 957956934</p> <p>\$700.00 <a href="#">Full Details</a></p>
<p>1 image(s)</p>	<p><b>P225 2009 MANUFACTURE WITH NIGHT SIGHTS</b>  <i>Sig - Sauer/Sigarms Pistols &gt; Other</i>            This is a 2009 manufactured P225. It comes with two magazines- new guns only ship with one magazine. I am the first and only owner. I have two like new additional factory magazines ... (read more)</p> <p>Seller: PistolPackingParson 973370874</p> <p>\$675.00 <a href="#">Full Details</a></p>
<p>1 image(s)</p>	<p><b>S&amp;W MOD. 686 .357 MAG.</b>  <i>Smith &amp; Wesson Revolvers &gt; Full Frame Revolver</i>            S&amp;W 686-1 Distinguished Combat Magnum L-frame .357 Mag., stainless steel, 4" barrel w/full underlug, replacement Pachmayr Gripper rubber finger-groove grips. Overall condition is 9... (read more)</p> <p>Seller: Jim 903672854</p> <p>\$595.00 <a href="#">Full Details</a></p>
<p>1 image(s)</p>	<p><b>S&amp;W MOD. 29 .44 MAG.</b>  <i>Smith &amp; Wesson Revolvers &gt; Full Frame Revolver</i>            S&amp;W 29-5 .44 Mag., blue, 4" barrel, Target Hammer, Target Trigger, Red Ramp front + White Outline rear sights, replacement Pachmayr Gripper finger-grove grips, 98-99% blue finish w/... (read more)</p> <p>Seller: Jim 959982821</p> <p>\$595.00 <a href="#">Full Details</a></p>
<p>3 image(s)</p>	<p><b>SMITH AND WESSON MODEL 559 9MM LUGER</b>  <i>Smith &amp; Wesson Pistols - Autos &gt; Steel Frame</i>            This gun appears to be unfired, but I am not certain. It is in the incorrect box. It has 2 clips and original cleaning accessories. Postal Money Orders, or certified funds w/... (read more)</p> <p>Seller: Wilson Dinsmore 935797854</p> <p>GA Sales: 15</p> <p>\$575.00 <a href="#">Full Details</a></p>
<p>1 image(s)</p>	<p><b>RUGER GP100 .327 FED. MAG.</b>  <i>Ruger Double Action Revolver &gt; Redhawk Type</i>            NIB Ruger GP100 .327 Fed. Mag. 7-shot, 4" barrel, stainless steel, adjustable sights. Fires .327 Fed. Mag., .32 H&amp;R Mag., .32 S&amp;W Long, .32 S&amp;W. (read more)</p> <p>Seller: Jim 944381291</p> <p>\$550.00 <a href="#">Full Details</a></p>
<p>1 image(s)</p>	<p><b>S&amp;W MOD. 67 .38 SPCL.</b>  <i>Smith &amp; Wesson Revolvers &gt; Full Frame Revolver</i>            S&amp;W Model 67-1 .38 Spcl. 4" barrel (not heavy barrel), stainless steel 6-shot K-frame revolver. Shows very minor wear, just the usual light handling marks. Target Grips show typi... (read more)</p> <p>Seller: Jim 902929764</p> <p>\$495.00 <a href="#">Full Details</a></p>



-  **BROWNING MODEL 10/71 380ACP** 932436352  
*Browning Pistols > Other Autos*  
Vintage FN Browning Model 10/71 380ACP 7 shot mag w/finger extension. High polished blue finish 4.5" barrel. adjustable rear sight. Factory black plastic thumbrest grips. Excellent bore... (read more)  
5 image(s) Seller: Wilson Dinsmore [More from this Seller](#) \$475.00 [Full Details](#)
-  **RUGER NEW MODEL BLACKHAWK 357 MAG** 943827857  
*Ruger Single Action Revolvers > Blackhawk Type*  
This is a nice blued Ruger Blackhawk with a 6 1/2 barrel. The grips have been replaced with Pachmayr grips. Over all a great gun. Clean bore and crisp action. Postal Money Or... (read more)  
3 image(s) Seller: Wilson Dinsmore \$475.00 [Full Details](#)
-  **CZ P07 DUTY 9MM** 993674938  
*CZ (Ceska Zbrojovka) Pistols*  
Like-new CZ P-07 9mm. This firearm's magazines are guaranteed to drop free as designed. If you buy one brand new chances are you will have to send it in to get the magazine release... (read more)  
1 image(s) Seller: Deep South Firearms \$400.00 [Full Details](#)
-  **SMITH AND WESSON MODEL 59** 926905341  
*Smith & Wesson Pistols > Autos > Steel Frame*  
This is a single and double action 9MM with a 14 round magazine. Gun finish is dark blue with wood grips. This gun has adjustable rear sight. This gun has minor wear and scratches o... (read more)  
5 image(s) Seller: Wilson Dinsmore \$395.00 [Full Details](#)
-  **RUGER LCR .38 +P** 944331009  
*Ruger Double Action Revolver > S&P101 Type*  
Revolver is in VERY GOOD condition. Less than 100 rounds fired and cleaned every time. Perfect gun for CCW in holster or pocket. The Ruger Lightweight Compact Revolver (LCR) L... (read more)  
1 image(s) Seller: Deep South Firearms \$360.00 [Full Details](#)
-  **SMITH AND WESSON MODEL 59** 951142401  
*Smith & Wesson Pistols > Autos > Steel Frame*  
This is a single and double action 9MM with a 14 round magazine. Gun finish is dark blue with wood grips. This gun has adjustable rear sight. This gun has minor wear and scratches o... (read more)  
4 image(s) Seller: Wilson Dinsmore \$345.00 [Full Details](#)
-  **SIG SAUER P220 .22 RIMFIRE CONVERSION KIT** 921498414  
*Sig - Sauer/Sigarms Pistols > Conversion Kits*  
A .22LR Rimfire Conversion Kit for the SIG SAUER P220 model. Converts your P220 to .22LR in seconds. A complete replacement assembly, the Rimfire Conversion Kit installs as easily ... (read more)  
1 image(s) Seller: Jim \$325.00 [Full Details](#)
-  **S&W 32 DOUBLE ACTION 4TH MODEL** 966717864  
*Smith & Wesson Revolvers > Pre-1945*  
S&W 32 DOUBLE ACTION 4TH MODEL was made from 1883-1909. Serial numbers under 209300 were made prior to Dec 31, 1698 according to Fladerman. This serial number is 166675. THIS ... (read more)  
5 image(s) Seller: Wilson Dinsmore \$300.00 [Full Details](#)
-  **SMITH & WESSON 32 HAND EJECTOR MODEL OF 1903 5TH CHANGE** 912149554  
*Smith & Wesson Revolvers > Pre-1945*  
Smith & Wesson 32 Hand Ejector Model of 1903, 5th change revolver. This gun has a 4 " barrel, 5-screw frame, it has been refinished chrome. Bore is good. Grips are chipped as ... (read more)  
4 image(s) Seller: Wilson Dinsmore [More from this Seller](#) \$225.00 [Full Details](#)
-  **TRADES: NRA FREEDOM KIMBER TRADES:::** 910598213  
*Kimber of America Pistols*  
LNIB Kimber Ultra Compact NRA Freedom Model. Blue finish, 45 ACP. Original box and all paperwork. Factory mag. Looking to trade only. Looking for: H&K USP 45 or 40 Tactical H&K... (read more)  
1 image(s) Seller: BobbyInman \$1.00 [Full Details](#)

36 Listings Found Page 1 of 1

Mc | Cms

© 1997-2010 GunsAmerica.com LLC

GunsAmerica cares about your Privacy. [Privacy Policy](#)

[Home](#) | [Buy Guns](#) | [Sell Guns](#) | [Blog](#) | [Magazine](#) | [Forums](#) | [Fees](#) | [Privacy Policy](#) | [FAQ](#) | [XML/RSS](#) | [Your Account](#)  
[Guns For Sale](#) | [All Categories](#) | [Gun Related](#) | [Stocking Dealer Services](#) | [Shooting Events](#) | [GATV](#) | [Find an FFL](#)  
[Create Your Website](#) | [Take Credit Cards](#) | [Guns On Demand](#) | [GA Hosted Sites](#) | [Contact GunsAmerica](#) | [Archive](#)

-rem-

App. 45

<http://www.gunsamerica.com/Search.htm?Itid-all=1&t=&og=1&as=365&mn=0&mx=0&f...> 1/25/2011

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF JOSH WHITMAN**

I, Josh Whitman, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Utah and am eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a member of the National Rifle Association.
3. I live in Richmond, Utah, in my parents' home. I have been hunting with my father since the age of twelve. I have taken a state-run hunter safety course. My father has instructed me throughout my life in the proper, safe, and appropriate use of firearms, including handguns.
4. I was a member of the Boy Scouts until I turned 18. I achieved the rank of Life Scout and earned a merit badge for shooting skills.



5. I am the owner of two shotguns, a rifle, and a 9mm handgun. My father gifted me each of these firearms.

6. I want to buy an additional handgun as the one I have is not well-suited for target practice.

7. I understand that under federal law, 18 U.S.C. § 922(b)(1), it is “unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.” Even if I could find a dealer who was willing to break this law and sell me a handgun, I would not engage in the transaction for fear that I would be charged with (i) aiding and abetting, or conspiring to commit, a violation of 18 U.S.C. § 922(b)(1); (ii) violating 18 U.S.C. § 922(u), which states that it is “unlawful for a person ... unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of ... dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce”; or, (iii) violating 18 U.S.C. § 924(b), which states “[w]hoever ... with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ... receives a firearm or any ammunition in interstate or foreign commerce shall be fined ..., or imprisoned not more than ten years, or both.”

8. Because of these federal laws, I have not and cannot purchase a handgun from a federally licensed dealer.

9. If it were legal, I would buy a handgun from a federally licensed dealer. In particular, I would buy a handgun from My Favorite Gun Store in Richmond, Utah. I have discussed with Mr. White, the owner of that store, the particular features I am looking for in an additional handgun—namely something heavier and more accurate than my current 9mm, but also something that is cost efficient for regular target practice. From that discussion, I have concluded that I want to purchase a Glock 17 Gen 4 9mm pistol. Mr. White of My Favorite Gun Store has said that he can and would sell that pistol for \$535, but that he cannot and will not sell it to me because I am not old enough under federal law to purchase it. If I could, I would buy that handgun, and associated ammunition, from My Favorite Gun Store now.

10. Aside from my age, I am otherwise qualified to purchase a handgun and handgun ammunition under federal and state law. But, because Section 922(b)(1) prohibits these sales on account of my age, My Favorite Gun Store has refused to sell me the handgun I want to purchase.

11. I do not want to buy a used handgun or old handgun ammunition from a non-dealer because I will not now where the gun or ammunition has been or what it has been through. I do not believe such sales would assure that I received safe products of high quality. For example, a firearm or ammunition that has been improperly altered can be extremely dangerous, both to the user and to others. And ammunition that is corroded, wet, or otherwise changed can cause a misfire or dangerous explosion.

12. I trust My Favorite Gun Store to provide me with quality products, to stand behind those products, to answer my questions about firearms and ammunition, and to have a good selection. I do not have confidence that this would be true if I were to buy a used handgun or old ammunition from a non-dealer, assuming I could even find one.

13. Even if I were willing to buy a used handgun from a private seller, in my experience it would be very difficult to find one for sale. I am not aware of any personal acquaintance who is currently offering a used handgun and handgun ammunition for sale. I do know that there are some websites on which handguns are offered for sale by both FFLs and non-FFLs. But those websites typically require shipment through FFLs, so they do not provide a way around Section 922(b)(1)'s ban on transfers from FFLs. For example, I have attached to this Declaration, as Exhibits 1-3, true and correct copies of information pages from GunBroker.com, GunsAmerica.com, and AuctionArms.com. Gunbroker.com explains:

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder before placing a bid to make sure you qualify.

GunsAmerica.com explains:

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state.

AuctionArms.com explains:

How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.).... How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

14. In any event, GunsAmerica.com shows how, in my area, the secondary market for handguns is insignificant. A search for non-FFL sellers of handguns within 100 miles of Richmond yielded only eight listings. I have attached as Exhibit 4 a true and correct copy of that search.

15. I have also visited another website, [www.southwestguntrader.com](http://www.southwestguntrader.com), which displays classified ads for gun sales in Utah. As of January 26, 2011 the website did not have any ads for handguns for sale. I have attached as Exhibit 5 a true and correct copy of that website as it appeared on January 26, 2011.

16. I want to select and buy a handgun on my own. I do not want to rely on my father to gift me a handgun—as both the timing of the purchase and type of handgun would be of his choosing, not mine. As a legal adult, I do not believe I should have to ask my parents' (or anyone else's) permission to exercise my right to armed self-defense.

17. I also want to be able to buy ammunition for handguns on my own. I do not want to have to rely on my parents to do so, nor do I believe that I should have to ask my parents' (or anyone else's) permission to acquire the ammunition necessary to have a functional handgun.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 27, 2011

A handwritten signature in black ink, appearing to read "Josh Whitman", is written over a horizontal line.

Josh Whitman

# EXHIBIT 4

**BUY GUNS SELL GUNS**

SELL YOUR GUNS  
NO POSTING  
FEES! **Sell Now!**

Home >> Browse All >> Search Results >> Login To Save This Search

Login | Quick Register FREE

## Sig - Sauer/Sigarms Pistols For Sale

☒ All Types (8)  
☐ Classifieds (8)  
☐ Auctions  
☐ On Demand


Enter Search Word(s),  
Seller Phone Number,  
or GA Item Number


☐ Search Full Text of Listings  
☒ Show Only Guns  
☐ Show Only with Pictures  
☐ Show Only Non-Guns



POSTED WITHIN All  
MIN \$ All MAX \$ All  
FFL Status? Only Non-FFLs  
LIMIT CALIBER All Calibers  
LIMIT CONDITION Condition at least...  
84333 100 miles  
LIMIT TO STATE UT


- ☐ Sig - Sauer/Sigarms Pistols (2)  
☐ Other (2)  
☐ Smith & Wesson Revolvers (2)  
☐ Full Frame Revolver (1)  
☐ Pocket Pistols (1)  
☐ Browning Pistols (2)  
☐ Other Autos (1)  
☐ Hi Power (1)  
☐ Heckler & Koch Pistols (1)  
☐ Polymer Frame (1)  
☐ Ruger Semi-Auto Pistols (1)  
☐ P-Series (1)


Sort By: Best match 100 / Page 8 Listings Found Page 1 of 1


**FM HI-POWER M95 "CLASSIC" 9MM** 951788374  
*Browning Pistols > Hi Power*  
This is a New In Box Hi-Power built in Argentina under licence to Browning. It has a 10 round clip and box and papers. Excellent pistol! (read more)  
Seller: Rock And Roll  
GA Sales: 6  
**\$435.00**


**H&K USP 9** 981743384  
*Heckler & Koch Pistols > Polymer Frame*  
This is a New In Box USP 9 (9mm) complete with two 15 round clips and all papers...full size. Polymer frame, all metal parts specially treated. Can be carried cocked and locked. (read more)  
Seller: Rock And Roll  
GA Sales: 6  
**\$770.00**


**THE RUGER LCP** WITH CRIMSON TRACE® LASERGUARD® AND POCKET HOLSTER.   
**Always Prepared. Always On Target.**


**SIG SAUER P232 SL .380** 902845449  
*Sig - Sauer/Sigarms Pistols > Other*  
"The streamlined design of the P232 makes it ideal for all modes of concealed carrying. With rounded edges and no protruding parts, it is easy to draw from any position. The lightw... (read more)  
Seller: Rock And Roll  
GA Sales: 6  
**\$750.00**

**BROWNING BDA .380** 977822134  
*Browning Pistols > Other Autos*  
NIB with papers...never fired. The Browning BDA 380 pistol was introduced in 1980 or so as a compact and lightweight pistol for police and civilian use. The gun was manufactu... (read more)  
Seller: Rock And Roll  
GA Sales: 6  
**\$555.00**

**SIG P210-2** 928674618  
*Sig - Sauer/Sigarms Pistols > Other*  
I am reducing my collection. For sale is this NIB SIG P210-2 in 9mm. The SIG P210 is regarded as one of the finest out of the box military pistols in the world. The P210 is the ... (read more)  
Seller: Sjames  
**\$2,500.00**

**RUGER P94 40 CALIBER SEMI-AUTO** 940171161  
*Ruger Semi-Auto Pistols > P-Series*  
Ruger P94 40 Caliber Semi-automatic hand gun; two clips (ten rounds per clip); original case: two-tone gray and silver; two sets of grips, the original and and an after market set (read more)  
Seller: Alive Self Defense  
**\$425.00**

**SMITH AND WESSON 642 AIRWEIGHT** 981479408  
*Smith & Wesson Revolvers > Pocket Pistols*  
Excellent condition S&W 642 Airweight Stainless Steel Finish, "Hammerless" concealed carry design. Rated at .38 special/.38 +P. The gun has less than one box through it. (read more)  
Seller: ATTICUS51  
**\$399.00**

**SMITH & WESSON 29-2 44 MAGNUM, NICKEL** 941928818  
*Smith & Wesson Revolvers > Full Frame Revolver*  
I have a Smith & Wesson 29-2 44 Magnum revolver for sale. 8" barrel, nickel finish, good condition. \$800 OBO. The only trades I will consider are: 870 Police Shotgun HK USP Co... (read more)  
Seller: Jasonr98  
**\$800.00**

8 Listings Found Page 1 of 1

**THE RUGER LCP**  
WITH CRIMSON TRACE® LASERGUARD® AND POCKET HOLSTER.  
  
**RUGER**

**PF-9**  


**WITNESS  
PISTOLS  
FROM EAA  
SEE IT  
ALL  
eaacorp.com**  


Lc | 343.7874ms

© 1997-2010 GunsAmerica.com LLC

GunsAmerica cares about your Privacy. [Privacy Policy](#)

[Home](#) | [Buy Guns](#) | [Sell Guns](#) | [Blog](#) | [Magazine](#) | [Forums](#) | [Fees](#) | [Privacy Policy](#) | [FAQ](#) | [XML/RSS](#) | [Your Account](#)  
[Guns For Sale](#) | [All Categories](#) | [Gun Related](#) | [Stocking Dealer Services](#) | [Shooting Events](#) | [GATV](#) | [Find an FFL](#)  
[Create Your Website](#) | [Take Credit Cards](#) | [Guns On Demand](#) | [GA Hosted Sites](#) | [Contact GunsAmerica](#) | [Archive](#)

App. 53

# EXHIBIT 5



# SOUTHWEST GUN TRADER

## YOUR FIREARMS CONNECTION

Latest Submissions: Hornady 12GA OO Buck

[Register](#) [Login](#)

[Home](#) [Browse Ads](#) [Post Ad](#) [FAQ](#)

Welcome: **Guest**

[Advanced Search](#) | [Forum](#) | [f](#) [RSS](#)

### Ad Categories

Arizona .....	[33]
Colorado .....	[3]
Nevada .....	[5]
New Mexico .....	[0]
Utah .....	[0]
Other States .....	[16]
Announcements .....	[0]
Stolen Items .....	[0]
Questions .....	[0]

[Home](#) ► [Categories List](#) ► [Utah](#)

### Utah Online Gun Classifieds

<a href="#">Handguns</a> [0]	<a href="#">Rifles</a> [0]
<a href="#">Shotguns</a> [0]	<a href="#">Firearm Parts &amp; Related Items</a> [0]
<a href="#">Ammo &amp; Reloading Items</a> [0]	<a href="#">Trade</a> [0]
<a href="#">Wanted</a> [0]	<a href="#">Archery</a> [0]
<a href="#">Blades</a> [0]	<a href="#">Other Weapons</a> [0]
<a href="#">Hunting / Fishing Items</a> [0]	<a href="#">Hunting Land / Tours</a> [0]
<a href="#">Gun Shops / Gunsmiths</a> [0]	<a href="#">CCW / Tactical Training</a> [0]
<a href="#">Other Stuff</a> [0]	<a href="#">Announcements</a> [0]
<a href="#">Free</a> [0]	

[ALL in this Category](#) [0]

Jump to Category:

**GUN BOOKS FOR LESS • SAVE 25-35% EVERYDAY**  
**GunDigestStore.com** [Shop Now ►](#)

### Webmaster's Pick

[Millet LRS-1](#)  
[Millet Tactical DMS-1](#)  
[COLT 1991 A-1 .38](#)  
[SUPER WITH AMMO](#)

### Top Sponsors



### Zip Code Search

Search For Ads within:

Radius of 10 miles

From Zip Code:

### Donate

If you use and enjoy our site, please help out and donate by contacting us via [Email](#).

Additionally, we advise you to avoid Gunpal. They have our funds will not release them to us. There are hundreds, if not thousands complaints about them on the internet. Google Gunpal and you will find it.

Thank you for your continued support.

### Sponsor Ads

[Click on the links below to see sponsor ads.](#)

[Evil Black Rifle Girls](#)  
[JSE Surplus](#)  
[Sunflower Ammo](#)

### New Ads

[Hornady 12GA OO Buck TAP Reduced Recoil](#)  
[Ultimate Survival Deluxe Kit](#)  
[Adventure Medical Tactical Field med kit w/QuickClot](#)  
[PRICE REDUCED Weapon Light for Rifles Carbines SMGs with Pic ...](#)  
[Homepage Specials](#)  
[Homepage Specials](#)  
[Homepage Specials](#)  
[Hornady TAP LE .223](#)  
[Remington 75 gr - 20 rd Box](#)  
[4Sevens Quark MINIX 123](#)  
[Israeli - 7.62x51 NATO M61 AP Bullets](#)  
[Federal XM193C 400rd case](#)  
[sTANDARD PROCESS: mANUFACTURER OF ALLUMINIUM PRESSURE COOKER...](#)




National Rifle Association

[Join the NRA](#)



**App. 55**

[JLD PTR91 for Sale or Partial Trade](#)  
[AR-15 Carbine A-3 Flat-top Brand New](#)  
[DPMS Panther \\$4 SALE](#)  
[WTB/WTT Remington rifle in 8mm Remington Magnum and/or 338 R...](#)  
[JSE Surplus](#)  
[9 MM Once Fired Brass 500 count](#)  
[9 MM Cast Bullets 500 count](#)  
[38 Special Cast Bullets 500 count](#)  
[40 S&W Once Fired Brass](#)  
[Mo-Rod 5.5" Barrel Stabilizer/Accurizer for Ruger Mini-14](#)  
[Factory large caliber rifles from RRA / DPMS / FHN](#)  
[FN SCAR FDE and black](#)  
[Custom AR-15 Tiger Stripe Furniture sets w/ mags](#)  
[.45 ACP Cast Bullets 230 Gr. RN BB 500 count](#)  
[Hornady 45 ACP +P 230 gr TAP CQ](#)  
[DPMS 16 Inch AP4 5.56 1x9 Upper Assembly with Carry Handle](#)  
[used Bersa 380 handgun](#)  
[AR-15 SBR - 10.3" Barrel](#)  
[HK .45 USP, Fullsize with M2 light and magazines](#)  
[DPMS 16 In Sportical Rifle Kit \(Less Stripped Receiver\)](#)  
[Ar15 parts / AK parts](#)  
[Parkerizing Services](#)  
[Millett TRS-1 Scope](#)

Search For:	City:	Any Word		Search	You are visitor: 18593
Search In:	ALL CATEGORIES		With Photo Only: <input type="checkbox"/>	=All Dates=	 <a href="#"><u>Advanced Search</u></a>

[Advertise with us](#) | [Site Map](#) | [Terms of Use](#) | [Contact us](#) | [RSS](#) | [Ads](#) | [Become a Facebook Fan!](#)

©2009 SWGT, LLC All Rights Reserved

# EXHIBIT 1

View All Categories

Search
All Categories

enter keywords here

Advanced Search

New Buyers
New Sellers
Sell Your Item
Register - It's Free
Help

The World's Largest Online Auction of Firearms and Accessories™

Tools for Buyers

New Buyers

[Why Buy with GunBroker.com](#)

[How to Buy](#)

[Register](#)

[Buyer's Protection](#)

Learn the benefits of working with the largest online auction site dedicated to firearms and shooting sports.

Learn how to bid on and buy items at GunBroker.com in our detailed buyer's tutorial.

Register to buy or sell items on GunBroker.com.

Your safety is important to us! Our Buyer's Protection covers items bid on and won at auction.

Learn More

[How to Buy](#)

[Fees & Services](#)

[Tools for Buyers](#)

[Shipping](#)

[FAQs for Buyers](#)

[Testimonials](#)

[Are you an FFL?](#)

Before you Bid

[Find a Transfer Dealer](#)

[View User Feedback](#)

By Federal Law, firearms can only be shipped to an FFL Holder. If you do not have an FFL, you must make arrangements with an FFL Holder in your state to handle the transfer. We maintain a list of FFL Holders who are willing to handle transfers for qualified buyers. Please contact an FFL Holder **before placing a bid** to make sure you qualify.

Check the feedback rating of yourself, another bidder, or a seller.

Tracking your Bids

[My GunBroker](#)

View your bidding and buying activity organized into various logical views, including [Items I Bid On](#) and [Items I Won](#) . You can use [Watch List](#) to track items you are interested in and view any [Saved Searches](#) you created.

After the Auction

[Request User Information](#)

[Feedback](#)

[Resolving Problems with the Seller](#)

Retrieve the name and address of a user that you have bought from or sold to.

Submit feedback on one or more sellers simultaneously.

If you cannot contact the seller, have not received your item, are dissatisfied with your purchase, or have some other problem with a seller, use this form to help resolve the problem.

Manage your Account

[Edit Account Information](#)

[Account Status](#)

[Opt-in Mail and Newsletter Preferences](#)

[Logout](#)

Change your account information, including your user name, email address, and other contact information.

Review the financial status of your account, including fees assessed and payments made. You can also print a statement here.

Subscribe to or Unsubscribe from our monthly newsletter or our special promotional offers sent via email.

Logout from GunBroker.com

Buyer's Protection

[Buyer's Protection](#)

Your safety is important to us! Our Buyer's Protection covers items bid on and won at auction.

[Fraud Claims](#)

If you have bid on and won an item at GunBroker.com and either have not received the item or received a vastly inferior item you can fill out a Fraud Report. This page tells you how.

**Third-Party Tools**

[Escrow Service](#)

An escrow service acts as an intermediary between buyer and seller to ensure that neither side is dissatisfied or gets ripped off during the transaction. Make your purchases with confidence!

[Get a Free Email Address](#)

Get a free email account from ZapZone. Your email address will be *YourName@gunbroker.zzn.com*

[Make Money with our Affiliate Program](#)

[Get your Item Appraised](#)

[Dealer Services for FFL Holders](#)

[Join our Banner Exchange](#)



**GunBroker.com - The World's Largest Online Auction of Firearms and Accessories™**  
Copyright © 1999-2011 GunBroker.com, LLC. "GunBroker.com", the bullet logo, and "The Bidding Starts Now" are registered trademarks used under license. All Rights Reserved Worldwide (WEB7 4.1.25.34)

[Contact Us](#) | [Privacy Policy](#) | [Terms of Service](#) | [Site Map](#) | [Gun Manufacturers](#) | [Gun Models](#)



The World's Largest Online Auction of Firearms and Accessories™

View All Categories

Search All Categories

enter keywords here

Advanced Search

New Buyers New Sellers Sell Your Item Register - It's Free Help

How to Buy through GunBroker.com

What do I need to do first?

You need to be a registered user before you can begin buying or selling with GunBroker.com. We will email you a registration code that must be used to activate your account.

Do you want more detailed information before you dive in? If so, head over to Basic Training on the right, and choose a way to learn.

Click here to Register

Check out Basic Training

How do I bid on an item on GunBroker.com?

1. Scope out the special listings.

View the Charity Auctions and Showcase items on the GunBroker.com home page each time you visit.

2. Target your item.

Search immediately for the item you want using the search box, or

Browse the categories on the left hand side to find gun collectibles, sport firearms, hunting gear, knives & swords, air guns, archery and gun accessories. See all our Categories.

3. Pull the trigger - place your bid!

You can follow the bidding on My GunBroker.com to make sure you win.



Buying Details

BACKGROUND

- What is GunBroker.com?
- Can I buy here?
- How can I find a Transfer Dealer?
- How does the auction work?
- What does it cost?
- Is it safe?

BROWSING AND SEARCHING

- How can I find what I'm looking for?
- How do I browse listings?
- How do I browse by category?

- [How do I search for items and can I save my search criteria to use later?](#)

#### BUYING ACTIVITY

- [What is a Starting Bid and Reserve Price?](#)
- [What is a BuyNow! Price?](#)
- [What is a Dutch Auction?](#)
- [How do I place a bid?](#)
- [What is Autobid?](#)

#### AFTER THE AUCTION

- [I won an item. Now what?](#)
- [How do I submit feedback?](#)
- [What if I have problems with a seller?](#)

### Questions and Answers

#### ↑ [Back to List](#) **What is GunBroker.com?**

GunBroker.com is a gun auction site where sellers can list items for sale, such as gun collectibles, sport firearms, hunting gear, knives & swords, air guns, archery and gun accessories, and potential buyers can browse the listings and bid on the items. Expect to find a limitless number of top name brands from Glock pistols and Remington rifles to Benelli shotguns and Colt firearms. If you bid on the item and win it, you and the seller contact each other directly and make arrangements for payment and delivery of the item you won. GunBroker.com manages the sale process, provides a convenient form of communication between buyer and seller, and offers rich, varied, and up-to-date information on the item being sold (often including pictures).

An important note: Aside from hats, shirts, and other promotional merchandise bearing our logo, GunBroker.com does not sell any of the items listed on this auction site.

#### ↑ [Back to List](#) **Can I buy here?**

You must [Register](#) with us to bid on or sell items. Registration is free, safe, and private. We do not share your registration information with any third party and we do not send you junk email. [Privacy Policy](#).

Anyone who is [legally allowed](#) to own firearms, ammunition, knives, and gun accessories is allowed to buy or sell them here. It is your responsibility to be in compliance with all Federal, state, and local laws when using this site.

You do not have to be a licensed dealer to buy a firearm. If you are not a licensed firearm dealer (also called an FFL Holder), you must make arrangements with an [FFL Holder](#) in your state to receive the item and transfer it to you. Virtually anyone who is involved in the sale or distribution of firearms is an FFL Holder, including gun shops. You must make arrangements with your FFL Holder **before** placing a bid on an item. By contacting the FFL Holder before bidding, the buyer can verify that all state and federal laws will be observed. For most firearms, the buyer must be able to pass a background check.

GunBroker.com has compiled a list of FFL Holders who are willing to manage the legal transfer of firearms to unlicensed persons. Find a [Transfer Dealer](#).

Non-firearm items, such as air guns, knives, ammunition, antique guns that were built in 1898 or earlier firearm accessories, and some gun parts do not require transfer by a licensed dealer. There are age restrictions on many of these items, and you will be asked to verify your age to the seller (typically by mailing a photocopy of your driver's license) before you can purchase the item. In general, you must be 18 years old to buy items on this site. (To buy Pistol ammunition, you must be at least 21 years old; at least 18 years old for Rifle ammunition.)

If you have any questions or doubts about whether an item can be shipped to you, please contact your local [FFL Holder](#) or send a message to the seller of the item by clicking on the 'Ask seller a question' link located in the item listing.

International buyers: Be sure you get all your information on [exporting and importing firearms](#) to the United States.

See also: [Shipping Guide](#), [Gun Laws](#), [ATF List of State Laws](#).

#### ↑ [Back to List](#) **Where do I find the site's FFL Holder Network?**

GunBroker.com has compiled a list of FFL Holders who are willing to manage the legal transfer of firearms to unlicensed persons. You can browse this list by Zip Code or State using the **Find a Transfer Dealer** link located on the [Tools for Buyers](#) page.

See our current [FFL Holder Network Member List](#).

# EXHIBIT 2





GunsAmerica Drop Off Locations

[Login](#) | [Quick Register FREE](#)

Not Now

Continue

**Ship it Yourself****... Or Use a GunsAmerica Dropoff Location****How it Works***Option 1 - Sell it Yourself*

The basic premise of the GA Drop Off Location is that a local FFL Dealer handles the transfer of the gun for you. That way the gun is legally out of your hands, into his "bound book", and out from him to another FFL dealer in the buyer's state. So you, as the true seller of the gun, have established a clear paper trail for the gun that you need not ever maintain (even if an FFL dealer gives up his license his bound book is turned into the ATF). This is the simplest approach because nothing changes with your interaction with GunsAmerica and the buyer. You get to describe the gun, decide who it is sold to and how much it is sold for. And if the gun **doesn't sell** there is no transfer of the gun back to you. You also pay a simple up front fee, not a commission on the sale itself.

*Option 2 - Sell on Consignment*

Many of our GA Drop Off Location dealers will take the gun in on consignment for you and handle the sale completely. The gun may be sold in their store, on their website or through an ad at GunsAmerica. Those terms you work out with them and the fees for the sale are stated in advance. You also must take into account that the gun might not sell and may have to be transferred back to you. The dealer himself may want to buy the gun outright as well, so your options are varied from dealer to dealer.

[Click Here](#) to find the closest drop off location

FFL Dealers [Click Here](#) to become a GunsAmerica Drop Off Location

**Sign Me Up!**

© 1997-2010 GunsAmerica.com LLC

GunsAmerica cares about your Privacy. [Privacy Policy](#)

[Home](#) | [Buy Guns](#) | [Sell Guns](#) | [Blog](#) | [Magazine](#) | [Forums](#) | [Fees](#) | [Privacy Policy](#) | [FAQ](#) | [XML/RSS](#) | [Your Account](#)  
[Guns For Sale](#) | [All Categories](#) | [Gun Related](#) | [Stocking Dealer Services](#) | [Shooting Events](#) | [GATV](#) | [Find an FFL](#)  
[Create Your Website](#) | [Take Credit Cards](#) | [Guns On Demand](#) | [GA Hosted Sites](#) | [Contact GunsAmerica](#) | [Archive](#)

~smi~

# EXHIBIT 3

# AuctionArms.com

[Home](#) | [Registration](#) | [Become a Seller](#) | [Appraisals](#) | [Sell an Item](#) | [Help & Info](#)  
[Search](#) | [Forum](#) | [Find a FFL](#) | [My Auctions](#) | [My Bids](#) | [Contact Us](#) | [Log In](#)



## Auction Arms Help & Info

This is our Help & Info section - where answers to the life and death questions that plague us all can be answered - *as long as it pertains to Auction Arms*. If you don't find an answer to your question, give us a holler and we'll stuff it in there.

## Company Info

- [Who We Are, Why We're Doing This, and Other Important Stuff](#)
- [Buying GUNS on the Internet?](#)
- [Auction Arms Terms & Conditions](#)

## General User Info

- [What browser is supported by AuctionArms.com?](#)
- [ATF FAQ on Firearms](#)
- [How do I register?](#)
- [How do I update my email address, password, etc.?](#)
- [What do I do if I've lost my password?](#)
- [I'm not getting any email from Auction Arms - why?](#)
- [What is the FFL & Gunsmith Network?](#)
- [What is the NRA Grading Scale?](#)
- [Auction Arms Glossary](#)
- [What kinds of Auctions does Auction Arms run?](#)
- [What's a Reserve Auction?](#)
- [What's a Haggle?](#)
- [What's a Basic Auction?](#)
- [What's a Dutch Auction?](#)
- [What's a Best Offer Auction?](#)
- [What is a Penny Auction?](#)
- [What is the 10-Minute Rule?](#)
- [What is a Fibber McGhee's Closet?](#)
- [What is BuyItNow?](#)
- [What is a \(\\*\\*\\*\) HIDDEN \(\\*\\*\\*\) Bidder?](#)
- [What are Featured Auctions?](#)
- [What is Proxy bidding?](#)
- [What is the Bid Increment?](#)
- [I got outbid by less than the bid increment? Why?](#)
- [What is a Watch List? How do I use it?](#)
- [How do I contact the seller of an auction?](#)
- [Do you guys have an announcements page?](#)

**App. 65**

- [Can I make a suggestion?](#)
- [Does UPS accept guns? What the heck is their problem? Can I ship a gun via the USPS?](#)

## Seller Information

- [Can I sell my guns online?](#)
- [How do I become a seller?](#)
- [How do I list an item for sale?](#)
- [How do I link back to my auctions - from my own website?](#)
- [What are Special Services?](#)
- [What is 'My Pictures'?](#)
- [How do I include pictures in an auction?](#)
- [How do I manage my auctions?](#)
- [How do I edit an open auction?](#)
- [How do I close an auction early?](#)
- [What happens after an auction closes?](#)
- [How do I contact a high bidder?](#)
- [How do I post feedback on a buyer?](#)
- [How do I get a refund for a Deadbeat Bidder or Return?](#)
- [What is a Relist Credit and how do I use it?](#)
- [What are the fees for selling at Auction Arms?](#)
- [How do I place my Credit Card on file?](#)
- [How do I pay by Check?](#)

## Buyer Information

- [How do place a bid?](#)
- [How do I keep track of what I've bid on?](#)
- [How do I contact the seller?](#)
- [How do I post feedback on a seller?](#)
- [How do I protect myself from fraud before I bid?](#)
- [How do I protect myself from fraud if I have already won an auction?](#)
- [What's a Reserve Auction?](#)
- [What's a Haggle?](#)
- [What's a Basic Auction?](#)
- [What's a Dutch Auction?](#)
- [What is BuyItNow?](#)

---

## Who We Are, Why We're Doing This, and Other Important Stuff

My name is **Manny Dela Cruz** and I'm the founding member of Auction Arms. I originally came up with the idea of creating a online auction website for guns after seeing other auction websites on the Internet that dabbled in firearms. I wasn't impressed with what was out there, and too many folks were trying to charge big money for poor service. I also have a great love for things that go bang and I spend a lot of time at the range. So I figured it might be fun to create a website that catered to the shooter, while providing a great public service!

A retired Navy Commander toting an MBA and law degree, **Bob Lancaster** has been a key advisor and business consultant since inception. Bob's been living and breathing guns for over 40 years. He's been to see the Elephant, knows the importance of our 2nd amendment and has gone to the line protecting it. An avid hunter, he is a member of the North American Hunting Club, Ducks Unlimited and a life member of California Waterfowl Association. Bob's two favorite sayings are *"there's nothing so sad as an unfilled tag"* and *"so many guns, so little time."* A member of the American Gunsmithing Association, the NRA and the CRPA, he reloads, gunsmiths and deep-sea fishes as hobbies in the off season.

From 5 inch guns to .17 Remington, if it goes bang, Bob's probably shot it.

Keeping our computers running, and generally wreaking havoc on our system otherwise, **Michael Wiederhold** is our Senior Developer. If you've ever seen an error message at Auction Arms, Michael is most likely the root of it. Seriously, Michael is the source of most of the really hard (but really useful) programming at Auction Arms. As long as we continue to supply him with an unlimited supply of Diet Coke, and a quiet office to listen to his tunes, he'll keep plugging away.

My younger brother and Auction Arms' primary support person, **Marcus Dela Cruz** mans the phones and handles most of your support questions via email. When he's not risking life and limb behind the wheel of his sports car, or killing all comers via xBox, Marcus is doting on his wife and children, or generally keeping me from serious injury in some kind of stupid stunt. Marcus is the one you're most likely to run into if you have questions, or you need a problem resolved, so be nice!

I've pulled the trigger many times and I understand guns. I also understand the hostile climate that many of us who like to shoot, have to endure to perfect our craft. We at Auction Arms believe the Second Amendment is the "keystone" to the Bill of Rights, and we put our money where our mouths are. We contribute on a regular basis to pro-gun causes, and we vote a pro-gun ticket. Even in the current hostile climate, we're not afraid to say, "We're gun owners and members of the NRA!"

We're constantly striving to improve the site, so if you have any suggestions, or a problem with our site, [feel free to write us](#). We're new at this, but we have a strong belief in constant improvement, and we'd like you to be happy with the service. Thanks for visiting and good luck!

Manny Dela Cruz - CEO

### Is This Legal?

That's a question we get asked quite a bit. The answer, of course, is yes. Auction Arms doesn't actually deal in the transfer of firearms. What we deal in, is the bidding process for those who want to sell their firearms.

I'll give you an example: Let's say I want to buy a new gun from a legally authorized dealer. I go in, fill out all the appropriate paperwork, and pay my money. Then, after the end of my waiting period (courtesy of the Brady Bill), I go in and pick up my new toy. How is using Auction Arms different? Well, you'll still have to go in and sign papers, and go through the same legal process of transferring ownership of that gun as if you were buying the gun from the dealer (unless you're an FFL holder, yourself.) But with a dealer, you're pretty well stuck with the dealer's prices. You may shop around from dealer to dealer, but you usually don't get a very good deal.

Buying something at auction gives you the opportunity to find that something at a much lower price. Of course, that won't always be the case. If something is really in demand, you might actually pay more for that item when you buy it at auction. But the chances are, if you're looking for something pretty normal, you're going to get a great price for it.

You don't have the convenience of handling the firearm before buying it. But a reputable dealer will let you return the weapon unused for a refund, if it doesn't meet with your satisfaction. Of course there are no guarantees, but with the ability to [post a review](#) of the person you're purchasing from, you're a lot better off.

How are the transfers managed? If you win your firearm at auction, you then find someone in your area who is an FFL holder. An FFL (Federal Firearms License) holder is someone authorized by the Federal government to manage the transfer of firearms. Most people who post weapons at this site are FFL holders. Any store that sells firearms (legally) is an FFL holder. They'll be able to manage the transfer of your gun from the Seller to you. Of course, that means you'll have to go find an FFL holder, but there are over 90,000 in this country - we don't think that'll be a problem. Just visit your local gun store, they'll know what you're talking about.

We're not going to "gild the lily" when it comes to the process. It takes patience to wait for your firearm to show up at the dealer. But going through the process of bidding on an item is fun, and you might as well get a good deal for your money.

*That's where we come in.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF PAUL WHITE**

I, Paul White, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Utah. I am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am a Life Member of the National Rifle Association.
3. I am the owner and operator of My Favorite Gun Store ("the Store"), located in Richmond, Utah. The Store has a Class 1 Federal Firearms License ("FFL"). Class 1 FFLs are authorized to be dealers in firearms.
4. The Store offers firearms and ammunition, including handguns and handgun ammunition, for retail sale. The Store strives to ensure that all of the firearms and ammunition we sell are safe and functioning properly.

5. The Store also offers firearms training.

6. The Store's retail and training operations are individually tailored to each customer, and we aim to spend a good deal of time with each customer to ensure that his or her purchase of, and training with, firearms are suited to his or her individual needs and comfort level. As part of this personal service, we also seek to address any problems or issues a customer may have with firearms or ammunition after making a purchase. The Store stands behind the items it sells.

7. The Store sells approximately 250 firearms per year, most of which are handguns.

8. As the owner and operator of the Store, I ensure that all of its operations are compliant with all federal and state laws. I consider it a top priority that the Store carefully adhere to these laws.

9. One such law is 18 U.S.C. §922(b)(1), which states: "It shall be unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age." Accordingly, the Store does not sell handguns to law-abiding, otherwise-qualified adults between the ages of eighteen and twenty.

10. Because of Section 922(b)(1), I have, in the past, refused to sell handguns to law-abiding adults between the ages of eighteen and twenty. Accordingly, the store has lost profits and suffered economic injury because of Section 922(b)(1).

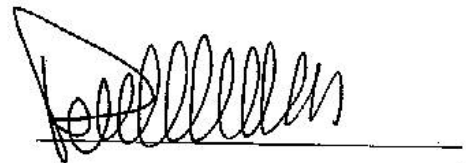
11. If it were legal, the Store would sell handguns to law-abiding, otherwise-qualified adults between the ages of eighteen and twenty.

12. For example, Joshua Whitman is a resident of Richmond, Utah, and is eighteen years old. He has indicated to me that he owns a small 9mm but would like a larger and more accurate handgun that was suitable for cost-efficient target practice. I have suggested to him that a Glock 17 Gen 4 would be very suitable for these purposes and that I can and would sell that handgun for \$535.00. Aside from his age, Mr. Whitman appears to be otherwise qualified to purchase this handgun and associated ammunition. Indeed, I have known Mr. Whitman and his family very well for the last seven years. I am confident that he would pass a query to the National Instant Criminal Background Check System. But, because Section 922(b)(1) and associated regulations prohibit this sale on account of his age, I have refused to sell Mr. Whitman the Glock 17 and associated ammunition. If this sale were not illegal under Section 922(b)(1), and he otherwise passed a background check, I would sell this handgun and associated ammunition to Mr. Whitman.

13. When a customer buys a handgun from the Store, they also often purchase firearms training from the Store. Because Section 922(b)(1) has caused me to turn away sales to eighteen-to-twenty year olds, it has also likely caused a loss of profits from firearms training that these potential customers would have purchased.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on January 27, 2011

A handwritten signature in black ink, appearing to read 'Paul White', written over a horizontal line.

Paul White



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF ROGER KOEPPE**

I, Roger Koeppe, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of the State of Texas and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.

2. I am a member of the National Rifle Association.

3. I am the owner and operator of a retail firearms dealership located in Houston, Texas.

The dealership's business name is Armory Management and Supply Services ("AMSS"), and the corporation name is Improvement Inside and Out, Inc. ("IIO"). IIO has a Class 7 and Class 8 Federal Firearms License ("FFL").

4. AMSS offers for sale a range of firearms, including handguns and handgun ammunition.

As a rough average, AMSS currently sells about 130 handguns per month.

5. AMSS also offers a broad spectrum of training, from introductory firearms, marksmanship, and self defense courses, all the way through advanced tactical courses for full time professionals.
6. Because AMMS believes it is imperative for firearms to be operated safely and proficiently, we stay updated on the latest information regarding safety notices, recalls, and new products for the firearms we sell. We also seek to ensure that our entire inventory of firearms and ammunition is in good working order. If a customer has an issue with firearms or ammunition purchased from AMSS, we work hard to address the problem.
7. AMSS's clientele includes a law-abiding private citizens as well as security professionals and law enforcement personnel. This clientele also includes law-abiding adults between the ages of eighteen and twenty.
8. As the owner and operator of AMSS, I ensure that all of its operations are consistent with all applicable laws and regulations, including federal firearms laws.
9. One such federal law is 18 U.S.C. §922(b)(1), which states: "It shall be unlawful for any ... licensed dealer ... to sell or deliver ... any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age." Because of this law and associated regulations, AMSS does not sell handguns to law-abiding, otherwise-qualified adults between the ages of eighteen and twenty.
10. Because of Section 922(b)(1), I have, in the past, consistently and repeatedly refused to sell handguns and handgun ammunition to law-abiding adults between the ages of eighteen and twenty who have asked to purchase these items from AMSS. Moreover, most of our 18-to-20

year old clients are aware of this law and thus do not directly ask to purchase a handgun from AMSS. But, while shopping for other items (such as long guns), they often browse the handgun inventory and comment that they would buy one of them if they were permitted under the law. Accordingly, AMSS has lost profits and suffered economic injury because of Section 922(b)(1).

11. If it were legal, I would, through AMSS, sell handguns to law-abiding, otherwise-qualified adults between the ages of eighteen and twenty.

12. When a customer buys a handgun from AMSS, they also often purchase firearms training from AMSS. Because Section 922(b)(1) has caused me to turn away sales to eighteen-to-twenty year olds, it is virtually certain that it has also caused a loss of profits from firearms training that these potential customers would have purchased.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January ~~28th~~<sup>27th</sup>, 2011

  
Roger Koeppe

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF ANNETTE ELLIOT**

I, Annette Elliot, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of Virginia and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am the President of Showmasters Gun Shows, a Virginia-based company that organizes and promotes gun shows throughout the country. I have been the president of Showmasters for fifteen years, and I have been involved in the gun show business for over twenty-five years.
3. Showmasters organizes and promotes dozens of gun shows each year—usually one or two per week, each week of the year. I have personally organized thousands of shows and have attended thousands more.

4. This year, for example, Showmasters already has over fifty gun shows scheduled in Virginia, North Carolina, Ohio, Pennsylvania, and West Virginia. We will add more shows in more locations as the year progresses.

5. In my experience, the overwhelming majority of table-holders offering modern handguns for sale at guns shows hold Federal Firearms Licenses (FFLs). It is uncommon to find a non-FFL table-holder at a gun show who is selling a modern handgun.

6. In fact, about three years ago I inventoried every table (of about 1,000 tables) at a major gun show I had organized in the Washington, D.C. area. I specifically asked the renter of each table whether he or she had an FFL. Out of the approximately 1,000 tables I visited, I found only one person who both did not possess an FFL and was offering a modern handgun for sale. And he was only offering one handgun. In other words, at one of the largest gun shows we run, I found only a single modern handgun for sale from a non-FFL.

7. Based on my experience with private, non-FFL sellers of firearms, I know that it is very common for such individuals to sell or trade long guns. The reason for this is simple: hunters and sportsmen have a variety of long guns for a variety of purposes (you do not hunt a deer with a turkey gun, for instance). So private parties often have a variety of long guns in their personal collection and often want to trade or change long guns based on their sporting and hunting needs. But handguns are more often used for self-defense. Private parties tend to have fewer handguns in their collections, and those they do have they tend to keep or to pass on through their wills or other means. There simply are many more used rifles and shot guns for sale than there are used handguns of a modern make and style.

8. In my capacity as an organizer of gun shows, I have interacted with tens of thousands of individual citizens seeking to purchase firearms over the years. Some of these individuals have

been between the ages of 18 and 20 years old, and a significant subset of this group has been females of this age seeking a handgun for personal protection. Some of these women have been seeking to purchase a handgun because of specific threats from stalkers and other criminals. I have had to inform these women that because of the federal ban on FFL sales to adults of their age, they could not buy a handgun for personal protection.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 26, 2011

A handwritten signature in cursive script that reads "Annette D. Elliott". The signature is written in dark ink and is positioned above a horizontal line.

Annette Elliot



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

**JAMES D'CRUZ; ANDREW PAYNE;  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC.,**

**Plaintiffs,**

**v.**

**THE BUREAU OF ALCOHOL,  
TOBACCO, FIREARMS, AND  
EXPLOSIVES; KENNETH E. MELSON,  
in his official capacity as Acting Director  
of the Bureau of Alcohol, Tobacco,  
Firearms, and Explosives; ERIC  
HOLDER, in his official capacity as  
Attorney General of the United States,**

**Defendants.**

**Case No. 5:10-cv-00140-C  
Judge Sam R. Cummings**

**DECLARATION OF STEVEN ELLIOT**

I, Steven Elliot, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am a resident of Virginia and am over eighteen years of age. My statements herein are based upon personal knowledge and experience.
2. I am the President of C&E Gun Shows, a Virginia-based company that organizes and promotes gun shows throughout the country. I have been the president of C&E Gun Shows for over twenty-five years.
3. C&E Gun Shows organizes and promotes dozens of gun shows each year—usually one or two per week, each week of the year. I have personally organized thousands of shows and have attended thousands more.

4. This year, for example, C&E Gun Shows already has over fifty gun shows scheduled in Virginia, North Carolina, Ohio, Pennsylvania, and West Virginia. We will add more shows in more locations as the year progresses.

5. In my experience, it is uncommon to find table-holders at a gun show who (i) are offering a modern handgun for sale, and (ii) do not have a Federal Firearms License (“FFL”).

6. It is possible to find private parties (that is, non-FFLs) who are selling curio and relic handguns. But these antique handguns are, typically, significantly more expensive than the modern firearms that many people purchase as their main self-defense weapon for the home. And, by definition, these firearms are not new—they are used and thus do not offer a ready market for those who want to purchase new firearm.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
CORRECT.

Executed on January 26<sup>th</sup>, 2011

A handwritten signature in cursive script, reading "Robert S. Elliott", written over a horizontal line.

Steven Elliot

## Early State Militia Laws

State	Relevant Statutory Text	Source
Connecticut	<p>Be it Enacted...That all male Persons, from sixteen Years of Age to Forty-five, shall constitute the Military Force of this State...And be it further Enacted, That all such as belong to the Infantry Companies, and Householders under fifty-five Years of Age, shall, at all Times be furnished at their own Expence, with a well fixed Musket, the Barrel not less than three Feet and an Half long, and a Bayonet fitted thereto, with a Sheath and Belt or Strap for the same, with a Ram-rod, Worm, Priming-wire and Brush, one Cartouch-box carrying fifteen rounds of Cartridges, made with good Musket Powder and Ball, fitting his Gun, six good Flints, and each Militia Man one Canteen holding not less than three Pints, upon Penalty of forfeiting and paying a Fine of Three Shillings for want of such Arms and Ammunition as is hereby required, and One Shilling for each Defect, and the like Sum or Sums for every four Weeks he shall remain unprovided....And be it further enacted, That every Light-Dragoon shall always be provided with...a Case of good Pistols...one Pound of good Powder, three Pounds of sizable Bullets, twelve Flints, a good pair of Boots and Spurs, on Penalty of Three Pounds for want of such Horse, and the Value of each other Article in which he shall be deficient.</p>	<p>An Act for Forming, Regulating, and Conducting the Military Force of this State (Conn. 1786) <i>in</i> ACTS AND LAWS OF THE STATE OF CONNECTICUT IN AMERICA 144, 150 (1786).</p>
Delaware	<p>§7 And be it enacted, That every person between the ages of eighteen and fifty, or who may hereafter attain to the age of eighteen years, except as before excepted, whose public taxes may amount to twenty shillings a year, shall at his own expence, provide himself; and every apprentice, or other person of the age of eighteen and under twenty-one years, who hath an estate of the value of eighty pounds, or whose parent shall pay six pounds annually towards the public taxes, shall by his parent or guardian respectively be provided with a musket or firelock, with a bayonet, a cartouch box to contain twenty three cartridges, a priming wire, a brush and six flints, all in good order, on or before the first day of April next, under the penalty of forty shillings, and shall keep the same by him at all times, ready and fit for service, under the penalty of two shillings and six pence for each neglect or default thereof on every muster day,</p>	<p>An Act for Establishing a Militia, §§7-8, 1785 Del. Laws 59.</p>

	<p>to be paid by such person if of full age or by the parent or guardian of such as are under twenty-one years, the same arms and accoutrements to be charged by the guardian to his ward, and allowed at settling the accounts of his guardianship.</p> <p>....</p> <p>§8 And be it enacted, That every male white person within this state, between the ages of eighteen and fifty, or who shall hereafter attain to the age of eighteen years ,except as before excepted, shall attend at the times and places appointed in pursuance of this act for the appearance of the company or regiment to which he belongs, and if any non-commissioned officer or private, so as aforesaid required to be armed and accoutered with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid although not required to be so armed and accoutered, shall neglect or refuse to appear on the parade and answer to his name when the roll is called over....shall forfeit and pay the sum of four shillings for every such neglect or refusal.</p>	
Georgia	<p>[A]ny male free inhabitant, between the age of sixteen and fifty years, who shall refuse or neglect to attend such company muster, shall be liable to a fine of two dollars....And any private who shall attend such company muster without a gun, in good order, or shall misbehave or disobey while under arms, shall be liable to a fine of six dollars, and shall have powder and lead equal to six common cartridges, or be liable to a fine not exceeding one dollar.</p>	An Act for Regulating the Militia of the State, and for Repealing the Several Laws Heretofore Made for that Purpose, 1786 Ga. Laws.
Maryland	<p>§II Be it enacted, by the General Assembly of Maryland, That a lieutenant in each county of this state, of undoubted courage, zeal and attachment to the liberties and independence of America....within ten days after the receipt of their several and respective commissions, shall, by warrant under their hand and seal, appoint fit and proper persons in every county, to make a true and exact list of the names of all able bodied white male persons, between sixteen and fifty years of age.</p> <p>....</p>	An Act to Regulate the Militia, ch. XVII., §§ II, VI, 1777 Md. Laws 361-62.

	<p>§VI And be it enacted, That the whole of the militia, so enrolled as aforesaid, shall be subject to be exercised in companies...on each of which days every militia man, so enrolled, shall duly attend, with his arms and accoutrements in good order...</p>	
Massachusetts	<p>Whereas the laws now in force for regulating the militia of the Commonwealth, are found to be insufficient for the said purpose:</p> <p>I. Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the several laws heretofore made for regulating the militia aforesaid, be and herby are repealed. Provided nevertheless, That all actions and processes commenced and depending in any Court within this Commonwealth, upon or by force of the said laws, shall, and may be sustained and prosecuted to final judgment and execution; and that all officers elected, appointed and commissioned agreeably to law, shall be continued in commission, and hold their respective commands in the militia, in the same manner as they would in case the said laws were still in force.</p> <p>II. And be it further enacted by the authority of the aforesaid, That the said militia shall be formed into a train-band, and alarm-list; the train-band to contain all able-bodied men, from sixteen to forty years of age, and the alarm-list all other men under fifty years of age, excepting in both cases such as shall be hereafter by this act exempted.</p> <p>....</p> <p>XIII. And be it further enacted by the authority aforesaid, That every non-commissioned officer and private folder of the said militia, not under the control of parents, masters or guardians, and being of sufficient ability therefore in the judgment of the selectmen of the town in which he shall dwell, shall equip himself, and be constantly provided with a good fire-arm, with a steel or iron ramrod, a spring to retain the same, a worm, priming wire and brush, a bayonet fitted to his fire-arm, and a scabbard and belt for the fame, a cartridge-box that will hold fifteen cartridges at least, six flints, one pound of powder, forty leaden balls suitable for this</p>	<p>An Act for Regulating and Governing the Militia of the Commonwealth of Massachusetts, and for Repealing All Laws Heretofore Made for That Purpose (Mass. 1785) <i>in</i> THE PERPETUAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS, 338, 340-41, 346-47 (1789).</p>

	<p>firearm, a haversack, blanket, and canteen; and if any non-commissioned officer or private soldier shall neglect to keep himself so armed and equipped, he shall forfeit and pay a fine not exceeding three pounds, is proportion to the value of the article or articles in which he shall be deficient, at the direction of the Justice of the Peace before whom trial shall be at hand.</p> <p>XIV. And be it further enacted by the authority aforesaid, That all parents, masters and guardians, shall furnish those of the said militia who shall be under their care and command, with the arms and equipments aforesaid, under the like penalties for any neglect.</p> <p>XV. And be it further enacted by the authority aforesaid, That whenever the selectmen of any town shall judge any inhabitant thereof, belonging to the said militia, unable to arm and equip himself in manner as aforesaid, they shall, at the expense of the town, provide for and furnish such inhabitant [sic] with the aforesaid arms and equipments, which shall remain the property of the town at the expence of which they shall be provided; and if any soldier shall embezzle or destroy the arms and equipments, or any part thereof, with which he shall be to furnished, he shall upon conviction before some Justice of the Peace in the county where such offender shall live, be adjudged to replace the article or articles which shall be by him so embezzled or destroyed, and to pay the cost arising from the process against him; and in café he (hall not within fourteen days after such adjudication against him perform the same, it shall be in the power of the selectmen of the town to which he shall belong, to bind him out to service or labour, for such term of time as shall in the discretion of the said Justice, be sufficient to procure a sum of money equal to the amount of the value of the article or articles embezzled or destroyed, and to pay the cost arising as aforesaid...</p> <p>....</p> <p>XXXV. And be it further enacted by the authority aforesaid, That the non-commissioned officers and private soldiers belonging to the said corps of artillery, shall be armed and equipped in the same manner as the train-band of the said militia are in this act directed to arm and equip themselves.</p>	
--	---	--

	<p>....</p> <p>XXXVIII. And be it further enacted by the authority aforesaid, That every officer, non-commissioned officer and private, belonging to the said cavalry, shall keep himself provided with a good horse, not less than fourteen hands and a half high, a saddle, bridle, holsters, pistols, sword, boots and spurs, carbine with a spring and sling, a cartouch-box, with twelve rounds of cartridge and ball for his carbine, and fix for each pistol, nine flints, a cloak and canteen.</p> <p>....</p> <p>XL. And be it further enacted by the authority aforesaid, That the officers, non-commissioned officers and privates belonging to the said corps of artillery and cavalry, shall be subject to the same rules and regulations as are by this act provided for the train-band in the militia aforesaid; and the several companies belonging to the said corps shall be subject to the immediate orders of the major-neral commanding the division within which the same shall be raised.</p>	
New Hampshire	<p>Whereas it is the duty and interest of every State, to have the militia thereof properly armed, trained, and in complete readiness to defend against every violence or invasion whatever: And Whereas the laws now in force respecting the regulation of the militia are insufficient for those purposes: Be it therefore enacted... That the training band, so called, shall consist of all the able bodied male persons within the State, from sixteen years old to forty...</p> <p>....</p> <p>And be it further enacted by the authority aforesaid, That every non-commissioned officer and soldier, both in the alarm list and training band, shall be provided and have constantly in readiness, a good musquet and bayonet fitted thereto, with a good scabbard and belt, a worm, priming-wire and brush, a cartridge-box that will hold, at least twenty-four rounds, six flints, and a pound of powder, forty leaden balls fitted to his gun, a knapsack, a blanket, and a canteen that will hold one quart.</p>	<p>An Act for Forming and Regulating the Militia within this State, and for Repealing All the Laws Heretofore Made for that Purpose (N.H. 1786) <i>in</i> THE LAWS OF THE STATE OF NEW HAMPSHIRE 356-57, 359-60 (1792).</p>



	Such of the training band as are under the care of parents, masters, or guardians, are to be furnished by them with such arms and accoutrements; and such of the training band, or alarm list, as shall be unable to furnish themselves, shall make application to the selectmen of the town, who are to certify to his captain, or commanding officer, that he is unable to equip himself; and the said selectmen shall, at the expense of the town, provide for, and furnish such person with arms and equipments; which arms and equipments shall be the property of the town at whose expense they are provided...	
New Jersey	Be it therefore Enacted...That every Captain or Commanding Officer of a Company...take a List of all able-bodied Men, not being Slaves (except as is herein after excepted) between the Ages of sixteen and fifty Years, who reside in his District and are capable of bearing Arms...That every Person above directed to be enrolled shall bear Arms, attend Musters, and in all Things be conformable to the Rules and Orders herein after mentioned; and shall, as soon as possible, furnish himself with a good Musket, well fitted with a Bayonet, Steel Ramrod, Worm, Priming-wire and Brush, a Knapsack, Canteen, twelve Flints, Cartouch Box, and twenty-three Rounds of Cartridges suited to his Gun, under the Forfeiture of Five Shillings for Want of a Musket and One Shilling for the Want of Any of the other Articles, provided that in case any Person shall be furnished with a good Rifle Gun, with all its necessary Apparatus, and a Sword, Cutlass or Tomahawk, it shall be accepted in Lieu of a Musket and the Accoutrements proper thereto.	An Act for the Better Regulating [of] the Militia, ch. XX, §§1, 4 1777 N.J. Acts 26.
New York	Be it enacted by the people of the State of New-York, represented in Senate and assembly, and it is hereby enacted by the authority of the same, That every able-bodied male person, being a citizen of this state, or of any of the United States, and residing in this state...and who are of the age of sixteen, and under the age of forty-five years, shall, by the captain or commanding officer of the beat in which such citizens shall reside, within four months after the passing of this act, be enrolled in the company of such beat. That every captain or commanding officer of a company, shall also enroll every citizen as aforesaid, who shall, from time to time,	An Act to Regulate the Militia (N.Y. 1786) <i>in</i> Thomas Greenleaf, ed., 1 LAWS OF THE STATE OF NEW YORK 227-28 (1792).

	<p>arrive at the age of sixteen years, or come to reside within his beat, and without delay notify such enrolment to such citizen so enrolled, by some non-commissioned officer of the company, who shall be a competent witness to prove such notice....That every citizen so enrolled and notified, shall within three months thereafter, provide himself, at his own expence, with a good musket or firelock, a sufficient bayonet and belt, a pouch, with a box therein to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge containing a proper quantity of powder and ball, two spare flints, a blanket and knapsack; and shall appear so armed, accoutered and provided when called out to exercise or duty, as herein after directed.</p>	
North Carolina	<p>§2 Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the Militia of this State be divided into six Brigades, viz.: One in each of the Districts of Edenton, New Bern, Wilmington, Halifax, Salisbury and Hillsborough. And each Brigade to be commanded by a Brigadier General. And the Militia of every County shall consist of all the effective men from sixteen to fifty years of age inclusive.</p> <p>....</p> <p>§4. And be it further enacted, that each Militia soldier shall be furnished with a good Gun, shot bag and powder horn, a Cutlass or Tomahawk, and every Soldier neglecting to appear at any muster, accoutered as above, shall forfeit for every such offence two shillings and six pence (unless he can make it appear that they were not to be procured) to be recovered as other fines. And where any person shall appear to the Field Officers not possessed of sufficient property to afford such arms and accouterments, the same shall be procured at the expence of the County, and given to such persons on muster Days, or when ordered into service, which Guns and Accouterments after such service, shall be returned to the Captain of the Company, and by him carefully preserved for future occasions.</p>	<p>An Act to Establish a Militia in this State, ch. 1, §§2, 4, 1777 Laws of N.C. 1-2.</p>
Pennsylvania	<p>§ I. Whereas a militia law upon just and equitable principles hath ever been regarded as the best security of</p>	<p>An Act to Regulate the Militia of the</p>

	<p>liberty and the most effectual means of drawing forth and exerting the natural strength of a state...</p> <p>....</p> <p>§III. Be it enacted..., and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in the General Assembly met, and by the authority of the same, That the president or in his absence [the] vice-president of the supreme executive council of this commonwealth shall commissionate one reputable freeholder in the city of Philadelphia and one in each county within this state to serve as lieutenant of the militia for the said city and counties respectively.</p> <p>....</p> <p>§ IV. And be it further enacted....That the said lieutenant or sub-lieutenants as aforesaid shall issue his or their warrant to the constable of each township, borough, ward, or district in the said city and counties respectively or to some other suitable person, commanding him in the name of this commonwealth to deliver to him or them...a true and exact list of the names and surnames of each and every male white person usually inhabiting or residing within his township, borough, ward, or district between the ages of eighteen and fifty-three years capable of bearing arms.</p> <p>....</p> <p>§ X. And be it further enacted...That the whole of the militia so enrolled as aforesaid shall be subject to be exercised in companies under their respective officers...and on each of which days every militia-man so enrolled shall duly attend with his arms and accoutrements in good order.</p>	<p>Commonwealth of Pennsylvania, ch. DCCL, §§I, III-IV, X, 1776-77 Penn. Stat. 75-78, 80.</p>
Rhode Island	<p>[A]ll effective Males between the Ages of Sixteen and Fifty . . . shall constitute and make the military Force of this State....And be it further Enacted by the Authority aforesaid, That each and every effective Man as aforesaid shall provide, and at all times be furnished, at his own Expense (excepting such persons as the Town-Councils of the Towns in which they respectively dwell or reside shall adjudge unable to purchase the same)</p>	<p>An Act for the Better Forming, Regulating and Conducting the Military Force of this State, 1780 R.I. Acts 29, 31-32, 35.</p>

	with one good Musquet, and a Bayonet fitted thereto....Be it further enacted that every Person who shall at any Time be found deficient in any of the Arms, Accoutrements and Equipage, as by this act prescribed and directed, excepting those before excepted, such Delinquent shall forfeit and pay a Fine for every such delinquency....All Male Persons between the Ages of Fifty and Sixty, if able in the Judgment of the respective Town-Councils, shall be at all Times armed, accoutered and equipped, in Manner aforesaid upon the same Penalty as though they were held to military Duty.	
South Carolina	[I]t shall be lawful for the Governor, or Commander in Chief of this State, to order the Militia of this State to assemble once in every six months in the City of Charleston, and once in every twelve months in the other districts throughout the state...That every person who, on being summoned, shall willfully neglect to turn out at a regimental muster, properly armed and accoutered...shall be fined in a sum not exceeding four dollars....And be it enacted by the authority aforesaid, that the following persons shall be excused from militia duty...all persons under the age of eighteen years, or above the age of fifty years.	An Act for the Regulation of the Militia in this State, 1784 S.C. Acts 68-69.
Vermont	And that every able-bodied male person, being a citizen of this state, or of any of the united states and residing in this state...who are of the age of sixteen and under the age of fortyfive [sic] years, shall by the captain or commanding officer of the beat in which such citizen shall reside, within four months after passing of this act, be enrolled in the company of such beat....And every citizen, so enrolled and notified, shall within nine months there after, provide himself, at his own expence with a good musket or firelock, with a priming wire and brush, a sufficient bayonet and belt, with a cartouch box, with three pounds of lead bullets suitable to the bore of his musket or firelock, a good horn containing one pound of powder, and four spare flints; and shall appear so armed, accoutred and provided, when called out to exercise or duty, if thereto required.	An Act Regulating the Militia of the State of Vermont. for Regulating the Militia of this State (Vt. 1787) <i>in</i> STATUTES OF THE STATE OF VERMONT REVISED AND ANNOTATED, 107 (1791).
Virginia	Be it enacted, That all free male persons between the ages of eighteen and fifty years...shall be enrolled or formed into [militia] companies....Every Officer and soldier shall appear...armed, equipped, and accoutered	An Act for Amending the Several Laws for Regulating and

	as follows: The County Lieutenants, Lieutenant Colonels Commandant and Majors with a sword: the Captains, Lieutenants, and Ensigns, with a sword and esponton; every non-commissioned officer and private, with a good clean musket carrying an ounce ball, and three feet eight inches long in the barrel, with a good bayonet and iron ramrod well fitted thereto, a cartridge box properly made, to contain and secure twenty cartridges fitted to his musket, a good knapsack and canteen; and moreover, each non-commissioned officer and private shall have at every muster, one pound of good powder and four pounds of lead; including twenty blind cartridges.	Disciplining the Militia, and Guarding against Invasions and Insurrections, ch. LXVII, 1784 Va. Acts 16.
--	---	--

*Certificate of Service*

On January 28, 2011, I electronically submitted the foregoing document with the clerk of court for the U.S. District, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5 (b)(2).

s/Charles J. Cooper  
Charles J. Cooper